



CALIFORNIA  
REINVESTMENT  
COALITION  
[www.calreinvest.org](http://www.calreinvest.org)

474 Valencia Street, Suite 230  
San Francisco CA 94103

Phone 415 864 3980  
Fax 415 864 3981

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# From Foreclosure to Re-Redlining

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How America's largest financial institutions  
devastated California communities



Photo by David Bacon

**FEBRUARY 2010**

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## ACKNOWLEDGEMENTS

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The California Reinvestment Coalition hopes this report will inform the public dialogue around foreclosure prevention, community reinvestment, and financial regulatory reform. What is clear is that more transparency and accountability are needed to ensure that financial institutions are part of the solution, not just part of the problem, when it comes to the critical work of preserving homeownership, re creating wealth and stabilizing our communities.

*California Reinvestment Coalition advocates for the right of low-income communities and communities of color to have fair and equal access to banking and other financial services. CRC has a membership of 275 nonprofit organizations and public agencies across the State.*

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## EXECUTIVE SUMMARY

We are witnessing one of the biggest losses in personal and community wealth in the U.S. as a result of the crisis in our banking and housing finance system. Foreclosures have continued to rise since the mortgage crisis took off in 2007, with 2009 recording the highest numbers yet. About 2.8 million U.S. properties received foreclosure notices that year, up 21 percent from 2008 and up 120 percent from 2007.<sup>1</sup> Of the millions more households at risk of mortgage default and foreclosure, very few are getting successful loan modifications from financial institutions under the government's current program for addressing this crisis.

The result has been increasing economic and social destabilization, with hard-hit states like California, Florida, Arizona and Illinois (these four accounted for more than 50 percent of the national total in 2009) reflecting an alarming amount of collateral damage—tenant evictions, small business closures, job losses, and rising homelessness.

Even more alarming, as much research has already shown, foreclosures' disproportionate impact on communities of color points toward ongoing economic erosion and loss of generational wealth in neighborhoods long battered by financial predation. These hardest-hit communities are racially concentrated, low- to moderate income areas of African Americans and Latinos that were saturated with high-cost, subprime lending since 2000. Neighborhoods once redlined—where lenders refused to lend in neighborhoods of color without regard to the actual financial qualifications of residents—were flooded in the past decade with high-cost subprime loans and abusive option ARM loans. These loans were often unaffordable and unsustainable for working class families, and inevitably led to large scale foreclosures. In the past two years, borrowers and communities struggling to preserve their primary asset—their home—have found that banks are not willing to work with them to restructure their mortgages or to offer new loans.

Several industry and government initiatives, including the Obama Administration's Home Affordable Modification Program (HAMP) and the Troubled Asset Relief Program (TARP), have done little to induce banks to halt foreclosures or make new loans. And these policy initiatives have failed to impose any meaningful consequences on banks for their failure to do as they have committed to President Obama.

California communities have been particularly hard hit by an unending cycle of abuse by the largest financial institutions. A total of 632,573 California properties received a foreclosure filing in 2009, the nation's largest state foreclosure activity total and an increase of nearly 21 percent from 2008.<sup>2</sup> With its large share of exotic mortgages, deeply underwater real estate market and high unemployment

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<sup>1</sup> RealtyTrac 2009 Year-End Market Foreclosure Report

<sup>2</sup> RealtyTrac 2009 Year-End Market Foreclosure Report

rate, the state epitomizes the key foreclosure drivers currently not addressed by existing loan modification programs.

Based on original research using lending and loan modification data that have been largely inaccessible and seldom analyzed, this report looks at how banks, including the largest financial institutions, have acted in five California cities (Los Angeles, Oakland, Sacramento, San Diego, and Stockton) over the last three years. The report utilizes neighborhood-level analysis to show the combined negative impact of predatory lending, concentrated foreclosures, inadequate foreclosure prevention solutions, and lack of access to mortgage lending credit to help sustain and revitalize neighborhoods. What the data indicate is an alarming trend of dispossession in neighborhoods with high concentrations of African American and Latino residents. Not only have these areas received a devastating amount of predatory home loans—and subsequent defaults—but they also receive markedly low numbers of loan modifications and an accompanying bigger drop in the origination of new conventional or prime loans than other neighborhoods.

## KEY FINDINGS

### **Lenders saturated California neighborhoods with high-cost and predatory loans:**

- In 2006, in each city, lenders were more likely to make high-cost loans in neighborhoods of color. In Sacramento and Stockton, for example, nearly 50% of all loans made in neighborhoods of color were subprime.
- Similarly, high-cost loans were concentrated in neighborhoods of color, while lower-cost prime loans were more likely to be located in non-minority neighborhoods. So, for example, in San Diego, neighborhoods that are predominantly neighborhoods of color (where 80% or more of the residents are people of color) received 20% of all of the high-cost loans made in the city, while those same neighborhoods received a mere 11% of lower-cost prime loans originated in San Diego.
- At the city level, high-cost loans by Big Bank Lenders (Bank of America, Citibank, Indymac/OneWest, JP Morgan Chase, US Bank, and Wells Fargo, and their affiliates) were concentrated in neighborhoods of color, as well. In Oakland, the Big Bank Lenders made 70% of all of their high-cost loans in neighborhoods predominantly of color. At the same time, the Big Bank Lenders made just over 40% of their lower-cost prime loans in these same neighborhoods.

### **Unsustainable loans created concentrated foreclosures in California neighborhoods:**

- In 2008, as a result of predatory and fraudulent lending, declining home values, and rising unemployment, California communities were hit hard by foreclosure filings. For example, the City of Sacramento had 14,557 notices of default filed in 2008—making it the ninth worst city for foreclosures in the country.
- The Big Banks highlighted in this report made, service, or act as trustee for loans that are responsible for a large number of notices of default filed in each city, from a low of

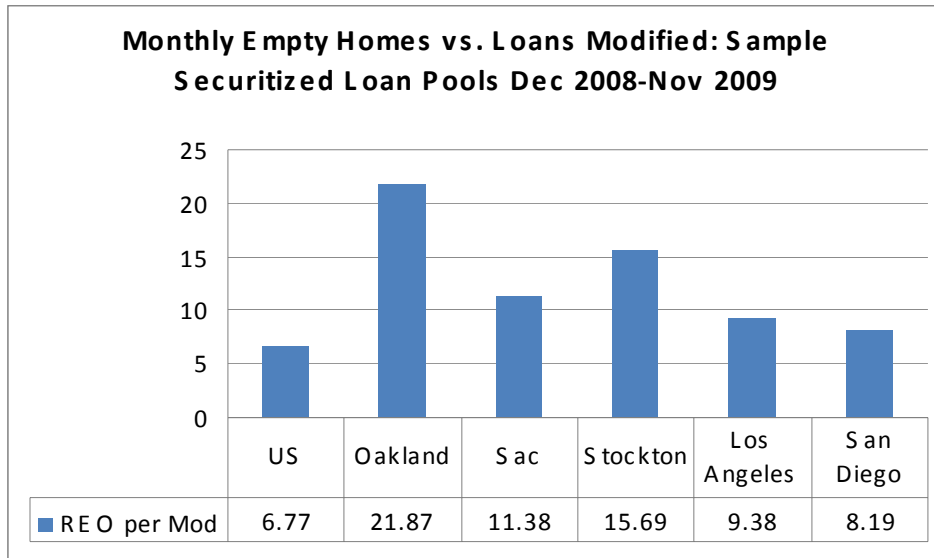
36.5% in San Diego, to a high of 57.5% of all Notices of Default filed in Oakland in 2008.

- JPMorgan Chase and its affiliates' lending and servicing arms were responsible for instigating more foreclosures in 2008 than the other Big Banks in three out of five survey cities, coming in a close second place in the other two survey cities.
- In each of the five survey cities, foreclosure activity disproportionately affected neighborhoods of color. For example, in Los Angeles, zip codes where 80% or more of the residents were people of color contained over 63% of the housing units in the city, but suffered over 90% of the city's foreclosures.

**Lenders' failure to work with families to prevent foreclosures has devastated California neighborhoods:**

California cities are more likely than the national average to be saturated with adjustable rate mortgage (ARM) loans, and loans with low documentation, such as stated income loans, according to sample loan level data.

- Over the last few years, mortgages in Stockton were much more likely to come with adjustable rates. 71.55% of loans in our sample in Stockton were ARMs, as compared to 53.51% of all loans in the entire U.S. sample coming with adjustable rates.
- A similar picture is seen with loans that were not fully documented, allowing brokers and lenders to put borrowers into loans they could not afford. In Los Angeles, nearly three-fourths of all loans in the sample were made with limited documentation, compared to 56% for all loans in the sample.
- Sample loan level data, representing roughly one-sixth of all mortgages in foreclosure and 20% of all loan modification activity, show inadequate modification results by mortgage servicers. Over the course of an entire year from December 2008 to November 2009, Sacramento and San Diego saw fewer than 1,000 permanent modifications, Oakland had only 372, Stockton had 520, and Los Angeles, only 2,326.
- In Oakland for example, there were an average of 21.87 foreclosed properties each month for every loan modification made each month in the sample, compared to only 6.77 for the U.S. as a whole. In other words, at any point during 2009, Oakland had nearly 22 properties in foreclosure for each loan modification made that month, or 15 more properties in foreclosure for every loan modification made per month than the U.S. rate. In each of the California cities surveyed, the ratio of properties in foreclosure status to loan modifications made per month was worse than for the U.S. as a whole.

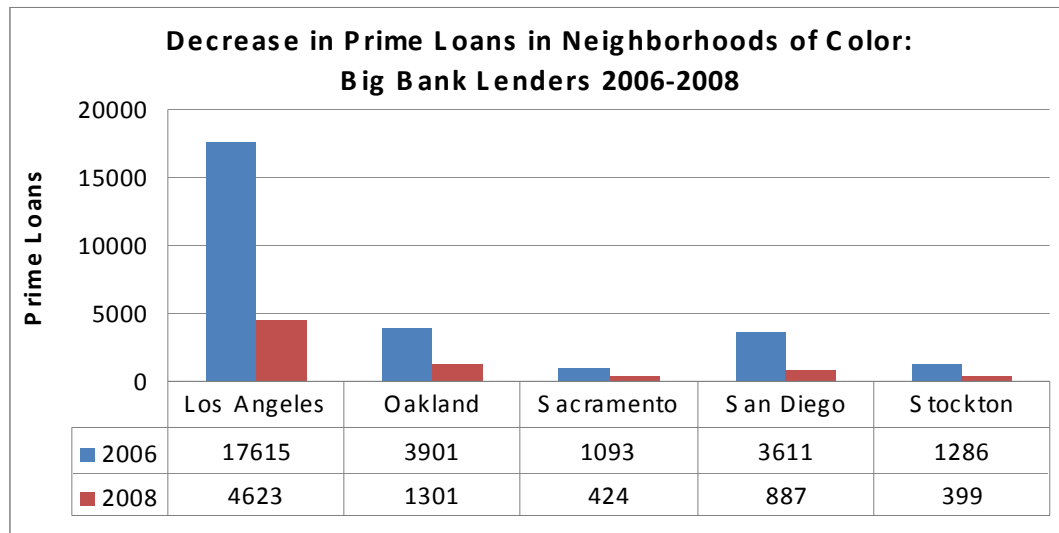


**Re-redlining is occurring as lenders deny credit to communities most affected by bad bank practices and most in need of revitalization:**

- The big story in 2008 was the return to high denials of applications for credit. In each city, denial rates were highest in neighborhoods where there were more residents of color. And denial rates in these neighborhoods averaged over 35%.
- The same patterns of higher denials in neighborhoods of color held true when looking at lending by the Big Bank Lenders. In San Diego, these Big Bank Lenders denied nearly 40% of all loan applications taken from neighborhoods of color.
- When looking at individual lenders, Bank of America, Citigroup and Wells Fargo were the lenders most likely to deny loans from communities of color as compared to loans from white neighborhoods. Denial disparity ratios relate the likelihood of loans being denied in neighborhoods of color to denial rates in non-minority neighborhoods.

| Denial Disparity Ratios |             |         |            |           |          |
|-------------------------|-------------|---------|------------|-----------|----------|
| Lender                  | Los Angeles | Oakland | Sacramento | San Diego | Stockton |
| Bank of America         | 3.8         | 3       | 1.7        | 2.1       | 1.4      |
| Citigroup               | 3.3         | 1.8     | 1.1        | 1.7       | 1.3      |
| Countrywide             | 1.5         | 1.1     | 1.7        | 1.5       | 1.1      |
| Downey Savings and Loan | 1.1         | 1.6     | 2          | 4.5       | 1.2      |
| JPMorgan Chase          | 1.8         | 1.5     | 1.3        | 1.6       | 1.3      |
| US Bank                 | 1.2         | 0.8     | 2.2        | 2         | 2        |
| Wachovia                | 1.2         | 2.2     | 1.5        | 1.8       | 1        |
| Wells Fargo             | 1.5         | 3.5     | 1.2        | 3.1       | 1.5      |

- Neighborhoods of color saw a dramatic DECREASE in lower cost PRIME loans in 2008, including from Big Bank Lenders. The drop off from 2006 to 2008 is stunning: In Oakland, there were three times as many PRIME loans made in predominantly neighborhoods of color in 2006 as there were in 2008.



- Even though high-cost lending decreased significantly in 2008, it was still more likely to occur in neighborhoods of color. The Big Bank Lenders which began to exert dominance in the market in 2008 also were more likely to sell high-cost loans to neighborhoods of color as compared to white neighborhoods.

## RECOMMENDATIONS

The findings in this report suggest the need for policy solutions to address four key challenges to California communities:

- Lack of transparency for foreclosure prevention efforts
- Lack of accountability for banks
- Need to reverse the neighborhood impacts of redlining, toxic loans, foreclosures, inadequate loan modification outcomes, and lack of access to credit
- Loss of household and community wealth

In order to address these key challenges, California Reinvestment Coalition recommends the following five action items:

### **Pass Strong Regulatory Reform: CRA and CFPA**

The one federal law that has been effective in forging wealth-building partnerships between borrowers, communities and financial institutions is the Community Reinvestment Act. CRA modernization can help ensure homeowners, businesses and communities have equal access to good loans that can help revitalize neighborhoods. Clearly, our regulatory system and regulatory agencies failed us. A Consumer Financial Protection Agency whose sole mission is to protect consumers from abusive products and practices would have helped

prevent a crisis like the one we face now. Such an agency needs broad powers and independence to do its job, and should have authority to enforce the Community Reinvestment Act.

### **Reduce Loan Principal to Slow Foreclosures: HAMP, Bankruptcy Cramdown and Beyond**

The growing number of underwater borrowers in California needs loan modifications with principal reduction to keep them in their homes and to preserve their communities. The HAMP program should be amended to require and incentivize servicers to reduce loan principal for underwater borrowers. Additionally, Congress should once and for all give homeowners the right to have federal judges in bankruptcy courts determine how best to restructure loans to give borrowers a second chance and keep their homes. Congress should pass legislation requiring principal reduction for underwater borrowers with abusive loans, even outside of Bankruptcy Cramdown.

### **Improve HAMP**

Currently, the Home Affordable Modification Program is the primary initiative by which struggling homeowners can receive assistance in avoiding foreclosures. The program needs to more effectively address a variety of issues, including: imposing meaningful consequences on servicers for failure to perform; addressing the needs of unemployed and underemployed borrowers; providing full transparency around data about which borrowers and which neighborhoods are getting help and which aren't; developing a clear internal and external appeals process for borrowers who are improperly denied assistance; and requiring servicers to respond to borrowers and counselors within one month. No borrower should lose her home because the servicer takes too long to process her application, or keeps losing the documents she sends.

### **Enforce Fair Housing and Fair Lending**

We are witnessing an alarming loss of wealth in communities of color as a result of historic inequities and modern predatory practices. The Departments of Justice and Housing and Urban Development must make fair housing investigation and enforcement a priority. The Treasury Department should scrutinize the race data it is collecting under HAMP to ensure the program is affirmatively furthering fair housing. More research and data are needed to shed light on the role of race in lending and foreclosure prevention, to help shape public policy, and to foster bank accountability.

### **Protect and Shelter Renters**

When tenants are evicted, properties may sit vacant, create blight in the neighborhood, become a site for criminal activity, and lower property value throughout the community. Policies designed to give tenant occupants and foreclosed homeowners the chance to sign a lease to rent the foreclosed property should be made more accessible. National banks must ensure that federal, state and local tenant protections are respected. Ultimately, we need more affordable housing. Federal policies—such as a permanent source of funds for affordable housing—are needed to jump start affordable housing development.



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# INTRODUCTION

We are witnessing one of the biggest losses in personal and community wealth in the U.S. today as a result of the crisis in our banking and housing finance system. Foreclosures have continued to rise since the mortgage crisis took off in 2007, with 2009 recording the highest numbers yet. About 2.8 million U.S. properties received foreclosure notices that year, up 21 percent from 2008 and up 120 percent from 2007.<sup>3</sup> Of the millions more households at risk of default on their mortgages and foreclosure, very few are getting successful loan modifications from financial institutions under the government's current program for addressing this crisis.

The result has been increasing economic and social destabilization, with hard-hit states like California, Florida, Arizona and Illinois (these four accounted for more than 50 percent of the national total in 2009) reflecting an alarming amount of collateral damage—tenant evictions, small business closures, job losses, and rising homelessness.

Even more alarming, as much research has already shown, foreclosures' disproportionate impact on communities of color points toward ongoing economic erosion and loss of generational wealth in neighborhoods long battered by financial predation. These hardest-hit communities are racially concentrated, low- to moderate income areas of African Americans and Latinos that were saturated with high-cost, subprime lending since 2000. Neighborhoods once redlined—where lenders refused to lend in neighborhoods of color without regard to the actual financial qualifications of residents—were flooded in the past decade with high-cost subprime loans and abusive option ARM loans. These loans were often unaffordable and unsustainable for working class families, and inevitably led to large scale foreclosures. In the past two years, borrowers and communities struggling to preserve their primary asset—their home—have found that banks are not willing to work with them to restructure their mortgages or to offer new loans.

Several industry and government initiatives, including the Obama Administration's Home Affordable Modification Program (HAMP) and the Troubled Asset Relief Program (TARP), have done little to induce banks to halt foreclosures or make new loans. And these policy initiatives have failed to impose any meaningful consequences on banks for their failure to do as they have committed to President Obama.

Instead, these very same banks that received taxpayer TARP funds are now making large profits and returning large bonuses to their leaders. JPMorgan Chase reported earning \$11.7 billion in 2009, more than double its profit in 2008. JPMorgan earmarked \$26.9 billion to compensate its top executives, much of

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<sup>3</sup> RealtyTrac 2009 Year-End Market Foreclosure Report

which will be paid out as bonuses.<sup>4</sup> Meanwhile, borrowers and communities in need of loans and credit are finding the door shut in their faces. From October 2008 to September 2009, lending by the largest 20 banks decreased by 13.7%, and lending by the biggest four banks decreased by 15% from April to October.<sup>5</sup>

California communities have been particularly hard hit by an unending cycle of abuse by the largest financial institutions. A total of 632,573 California properties received a foreclosure filing in 2009, the nation's largest state foreclosure activity total and an increase of nearly 21 percent from 2008.<sup>6</sup> With its large share of exotic mortgages, deeply underwater real estate market and high unemployment rate, the state epitomizes the key foreclosure drivers currently not addressed by existing loan modification programs.

Option adjustable rate mortgages (ARMs), which *BusinessWeek* in 2006 dubbed "nightmare mortgages," are the riskiest of the ARMs and the least understood. These loans provide borrowers the option of not paying all of the interest, which then adds to the principal balance, and at a certain point, the monthly payment balloons into double or even triple what the borrower had been paying. Despite the fact that they constituted some 12% of the nation's mortgages at the height of the real estate lending frenzy in 2006, there is still very little public information about these loans. Last year, California's Attorney General had to request data from 10 of the largest banks and loan servicers about their option ARM loans in the state, and there is no tracking of these loans through the federal Home Mortgage Disclosure Act. California holds nearly 60% of all option ARMs, with about one million of them set to balloon in the next few years.<sup>7</sup> Along with the fact that many of these homes have lost equity and are deeply underwater, the combination means that these thousands of borrowers will have no way out except foreclosure.

Based on original research using lending and loan modification data that has been largely inaccessible and seldom analyzed, this report looks at how banks, including the largest financial institutions, have acted in five California cities (Los Angeles, Oakland, Sacramento, San Diego, and Stockton) over the last three years.

The report utilizes neighborhood-level analysis to show the combined negative impact of predatory lending, concentrated foreclosures, inadequate foreclosure prevention solutions, and lack of access to mortgage lending credit to help sustain and revitalize neighborhoods. The report explores the relationship of these factors to the creation and preservation of assets for California communities, including for people of color and communities of color. What the data indicate is an alarming trend of dispossession in neighborhoods with high concentrations of African American and Latino residents. Not only have these areas received a devastating amount of predatory home loans—and subsequent defaults—but they also receive markedly low numbers of loan modifications and an accompanying bigger drop in the origination of new prime loans than other neighborhoods.

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<sup>4</sup> Eric Dash, "JPMorgan Chase Earns \$11.7 Billion in Year," *New York Times*, January 16, 2010

<sup>5</sup> Shahien Nasiripour, "Nation's 4 Biggest Banks Cut Business Lending by \$100 Billion Since April,"

*Huffington Post*, January 2, 2010, first posted December 16, 2009

<sup>6</sup> RealtyTrac 2009 Year-End Market Foreclosure Report

<sup>7</sup> "California AG Wants Option ARM Answers," by Austin Kilgore, *HousingWire*, 10/29/2009

## METHODOLOGY

Data used in this report include 2006 and 2008 Home Mortgage Disclosure Act (HMDA) data, 2008 foreclosure data obtained through ForeclosureRadar.com, and Columbia Collateral loan level modification data reported by Wells Fargo Trust Services to investors in Mortgage Backed Securities on which Wells Fargo serves as trustee or master servicer. This data set includes about one-sixth of all mortgages in foreclosure and about 20% of the monthly total modifications for November 2008. Loan analysis focuses on loan applications and loans originated for home purchase and refinance on 1-4 unit dwellings. Denial disparity ratio analysis compares loan denial rates in neighborhoods predominantly of color (80% or more people of color) to loan denial rates for neighborhoods with the fewest people of color (10% or less people of color; 10% to 20% people of color; or 20% to 50% people of color, depending on the demographics of the survey cities).

This study is subject to the limitations of publicly available data. HMDA data is limited in that certain elements of conventional underwriting—such as credit scores, loan to value ratios, and debt to income ratios—are not available. While CRC and other community groups continue to call for HMDA reporting requirements to be strengthened to include these and other elements, the industry continues to fight adamantly against any and all expansions of HMDA.

Demographic data are based on Census data as reported by PCI Wiz for HMDA data, and ZIPskinny.com for zip code analysis of foreclosure data.

Lending analysis focuses on lending performance by the largest financial institutions in America which have a disproportionate share of the mortgage market and, as a result, a disproportionate impact on neighborhoods. Institutions considered include bank holding companies and their subsidiaries, including lenders they acquired in recent years:

- Bank of America (Bank of America, Countrywide Bank, Countrywide Home Loans, First Franklin)
- Citigroup (Citibank, NA, Citifinancial, INC, Citimortgage, Citifinancial Services, Citifinancial Mortgage, Citicorp Trust Bank, FSB, Argent)
- Indymac Bank/OneWest
- JPMorgan Chase (JP Morgan Chase Bank, Chase Manhattan Bank USA, Washington Mutual Bank, Washington Mutual Bank, FSB, Long Beach Mortgage, Bear Stearns Residential Mortgage)
- US Bank (US Bank NA, US Bank, ND, PFF Mortgage, PFF Bank and Trust, Downey Savings)
- Wells Fargo (Wells Fargo Bank, Wells Fargo Home Mortgage, Wells Fargo Funding, Wells Fargo Financial, Wachovia Bank, Wachovia Mortgage, World Savings)

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## SUBPRIME SATURATION

### Lenders saturated California neighborhoods with high-cost and predatory loans

High-cost, or subprime, loans saturated California communities, in particular minority neighborhoods, in 2006 at the apex of the subprime lending frenzy. California had more subprime loans than any other state, and the most option ARMs in the country. Many of these loans were targeted to people and neighborhoods of color, came with onerous terms that were difficult for borrowers to understand and to repay, and would help plunge the United States and the world into our current financial crisis.

Numerous studies have shown that borrowers and neighborhoods of color received a disproportionate share of high cost, subprime loans in the years leading up to the burst of the housing bubble and the beginning of the foreclosure crisis.<sup>8</sup>

And although subprime lending was said to be for borrowers who could not qualify for prime loans, evidence suggests otherwise. In fact, a majority of subprime loans were made in the last few years to borrowers who could have qualified for lower-cost prime loans.<sup>9</sup>

Industry steering of borrowers into more costly and abusive loans than they qualify for had a large impact on people and neighborhoods of color. A recent California-based study noted how “striking to see the differences in the incidence of higher-priced lending among minority borrowers with good credit scores. More than 1 in 5 Black and Hispanic borrowers with FICO scores above 720 received a higher priced loan, compared to 1 in 20 white and Asian borrowers.”<sup>10</sup>

In many cases, borrowers were overburdened not only by the high cost of these loans, but also by other onerous loan terms, such as prepayment penalties that trapped borrowers into unaffordable loans, Yield Spread Premiums that paid brokers more compensation to deliver higher interest rate loans, and exploding Adjustable Rate Mortgages (ARMs) and pay option ARMs which guaranteed that

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<sup>8</sup> See for example, California Reinvestment Coalition, Community Reinvestment Association of North Carolina, Empire Justice Center, Massachusetts Affordable Housing Alliance, Neighborhood Economic Development Advocacy Project, Ohio Fair Lending Coalition, and Woodstock Institute, “Paying More for the American Dream: A Multi-state Analysis of Higher Cost Home Purchase Lending,” March 2007, and “Paying More for the American Dream II: The Subprime Shakeout and Its Impact on Lower Income and Minority Communities,” March 2008.

<sup>9</sup> Rick Brooks and Ruth Simon, “Subprime Debacle Traps Even Credit-Worthy,” *The Wall Street Journal*, December 3, 2007 (citing a study by First American LoanPerformance which found that by the end of 2006, 61% of all securitized subprime loans went to borrowers with credit scores high enough to qualify them for lower cost prime loans).

<sup>10</sup> Carolina Reid and Elizabeth Laderman (2009). “The Untold Costs of Subprime Lending: Examining the Links among Higher-Priced Lending, Foreclosures and Race in California,” presented at the Greenlining Homeownership Forum, San Francisco, May 5, 2009.

borrowers would later experience extreme payment shock as difficult payments grew dramatically and became impossible to repay.

One recent study of 200 metropolitan areas across the country found that minority borrowers, and especially black borrowers, were more likely to obtain high-cost loans in metropolitan areas that were more segregated by race.<sup>11</sup>

The targeting of neighborhoods of color for subprime and predatory lending followed a period of racial exclusion by banks dating back decades that was marked by redlining and discrimination. The absence of loans created a pent-up demand and a vacuum for credit in these neighborhoods that was then filled by high-cost and abusive loan products. As banks found a way to more effectively sell problematic loans on a broad scale through the use of brokers and Wall Street finance (where the loans were “out of sight, out of mind” as far as the banks and their regulators were concerned), entire communities became vulnerable to massive stripping of their homes and assets.<sup>12</sup> We are feeling the effects of this model today.

As one important example, predatory mortgage lending was so systematic that California’s largest lender, Countrywide Home Loans, was sued in 2008 by the state Attorney General for a practice of defrauding its California borrowers. The Attorney General complaint alleged that in 2004 the company “set out to double Countrywide’s share of the national mortgage market to 30% through a deceptive scheme to mass produce loans for sale on the secondary market,” without regard to the ability of borrowers to repay the loans. The Attorney General further alleged that “due to Countrywide’s lack of meaningful underwriting guidelines and risk layering, Countrywide’s deceptive sales tactics, Countrywide’s high pressure sales environment, and the complex nature of its Pay Option and Hybrid ARMs, a large number of Countrywide loans have ended in default and foreclosure, or are headed in that direction.”<sup>13</sup>

#### **Tosha Alberty of Oakland, CA was sold an option ARM loan.**

"I thought my loan was for \$520,000, and that I'd be paying \$2800 a month," she recalls. "But I discovered that it was for \$550,000, and the payment was much more." Her monthly installments ballooned to close to \$5000. Tosha, her husband, four children, and two grandchildren were evicted from their West Oakland home in July 2009 when sheriffs forced the family out, padlocked the doors and nailed plywood over every window.

"I just became homeless," Tosha said. "I went to sleep, woke up, went to work and the same morning, I'm homeless."

“Foreclosed Evicted” by David Bacon, Truthout (7/21/09)

<sup>11</sup> Furman Center for Real Estate & Urban Policy, New York University, “The High Cost of Segregation: Exploring the Relationship Between Racial Segregation and Subprime Lending,” Policy Brief, November 2009.

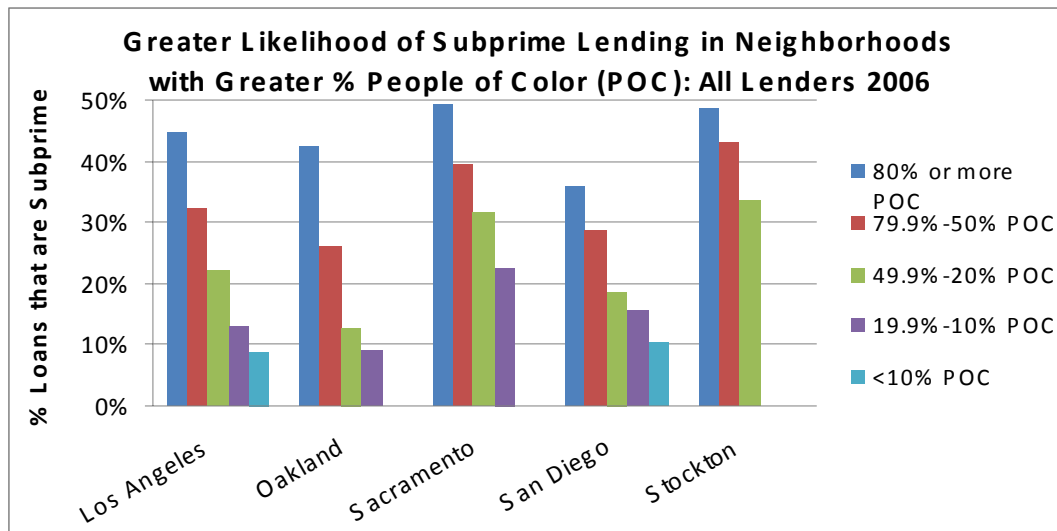
<sup>12</sup> See Gary Dymski, “Racial Exclusion and the Political Economy of the Subprime Crisis,” February 15, 2009, and Gary Dymski, “Understanding the Subprime Crisis: Institutional Evolution and Theoretical Views,” January 5, 2010.

<sup>13</sup> The People of the State of California v. Countrywide Financial Corporation et al, in the Superior Court of the State of California for the County of Los Angeles County, Northwest District, First Amended Complaint for Restitution, Injunctive Relief, Other Equitable Relief, and Civil Penalties, July 17, 2008.

## Loans in Neighborhood of Color are More Likely Subprime

### *For All Lenders*

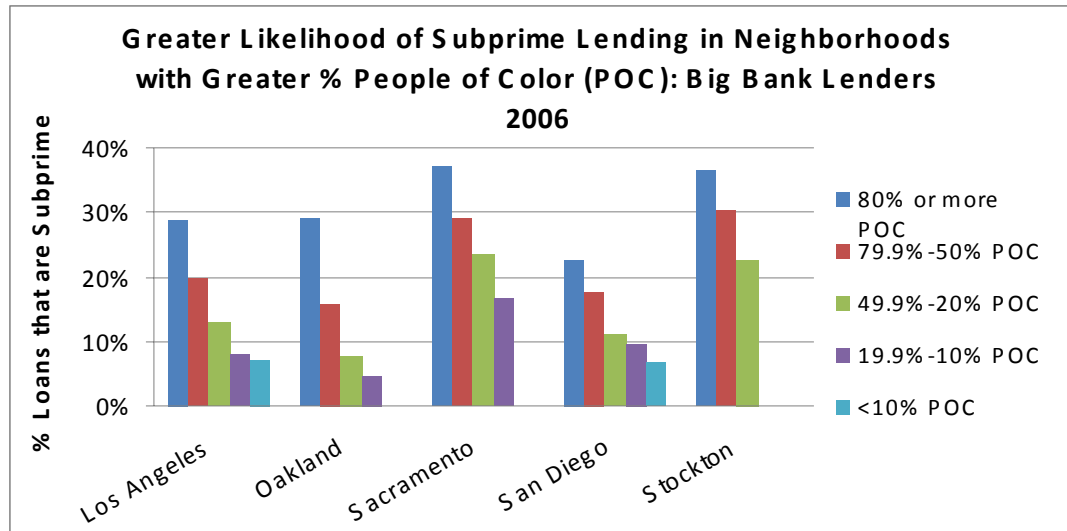
In looking at lending patterns in 2006, the height of subprime lending and loose underwriting, these patterns are confirmed. In each of the five survey cities, subprime lending comprised a greater share of all loans in neighborhoods with a greater percent of residents of color. In Sacramento and Stockton, for example, nearly 50% of all loans made in neighborhoods of color were subprime.



### *For Big Bank Lenders*

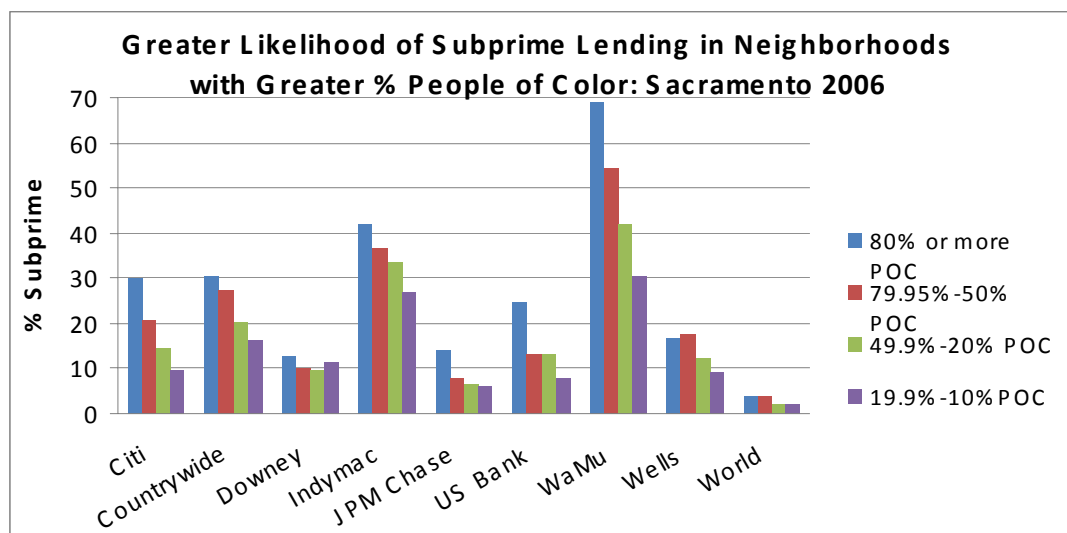
This dynamic was evident in analyzing lending patterns for all Big Bank Lenders, as well. In 2006 and in 2008, a large percentage of all lending was originated by Bank of America, Citigroup, Indymac, JPMorgan Chase, US Bank, and Wells Fargo, and the subsidiaries and companies they acquired.<sup>14</sup>

<sup>14</sup> CRC analysis of HMDA data shows that these lenders originated over 47% of all mortgages in 2006, and over 39% of all lending in the state in 2008, by dollar volume. The 2008 figure is affected by the absence of 2008 HMDA data for Washington Mutual (acquired by JPMorgan Chase) and Indymac (acquired by OneWest), both of which failed. CRC expects that in 2009 and beyond, these Big Bank Lenders captured an even greater share of the mortgage market in California and nationally.



#### *For Individual Lenders*

Broken out by company, it's clear that individual lenders were also more likely to make subprime loans in neighborhoods of color. This was generally true across all five cities, and exemplified by Sacramento's neighborhoods with greater concentrations of non-white residents where lenders were more likely to offer high-cost loans. This was true for lenders that did a lot of subprime lending, as was the case for Washington Mutual, as well as those that did relatively little subprime lending, such as JPMorgan Chase. Note that Bank of America's subprime lending in Sacramento was too low to register on the below chart and was therefore left off.<sup>15</sup>



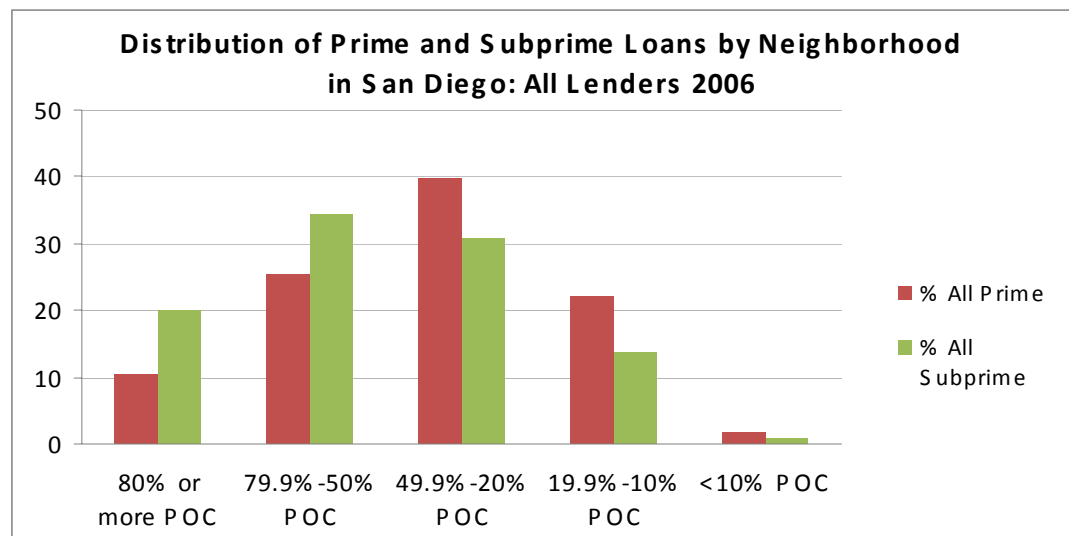
<sup>15</sup> Throughout this report, where lending data was insignificant, it was excluded from the analysis.



## Subprime Loans More Likely Distributed in Neighborhoods of Color

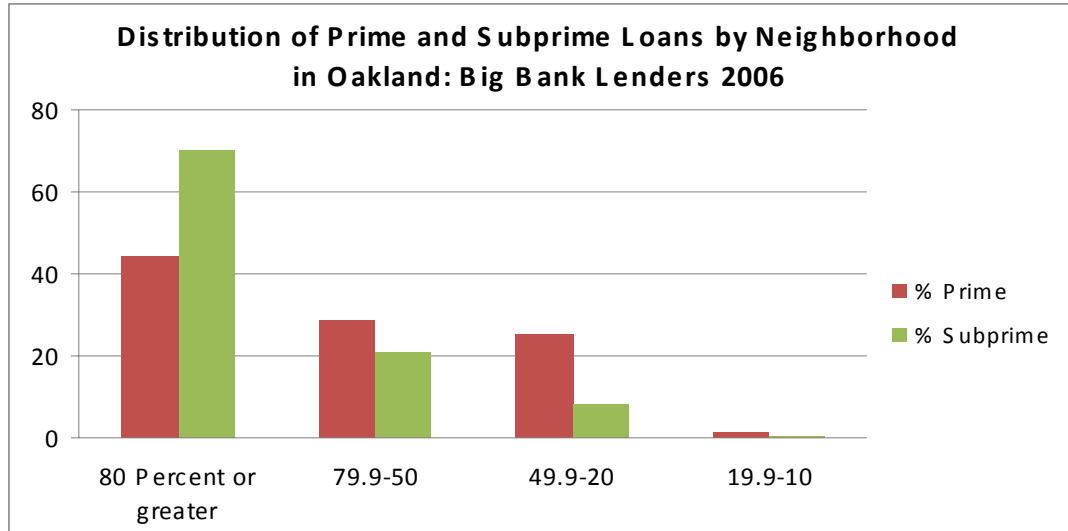
### *For All Lenders*

Similarly, subprime loans were more concentrated in neighborhoods of color, while lower-cost prime loans were more likely to be located in non-minority neighborhoods in all cities analyzed. So, for example, in San Diego, neighborhoods that are predominantly neighborhoods of color (where 80% or more of the residents are people of color) received 20% of all of the subprime loans made in the city, while those same neighborhoods received a mere 11% of prime loans originated in San Diego. Only when neighborhoods are mostly white do we see that the percent of prime loans made exceeds the percent of subprime loans made there.



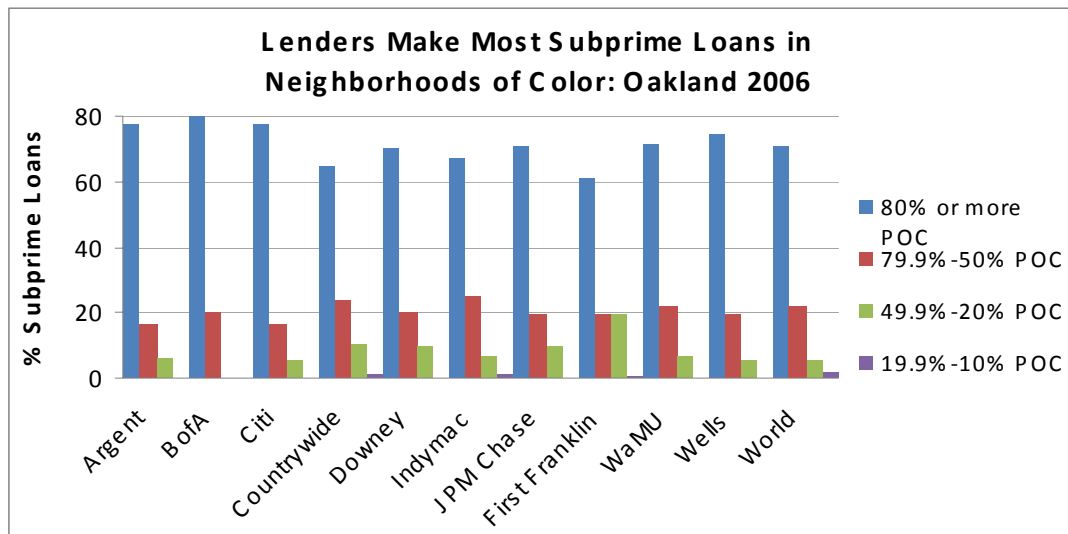
### *For Big Bank Lenders*

Subprime loans by the Big Bank Lenders were more concentrated in neighborhoods of color for all cities analyzed, as well. In Oakland, the Big Bank Lenders made 70% of all of their subprime loans in neighborhoods predominantly of color. At the same time, the Big Bank Lenders made just over 40% of their lower-cost prime loans in these same neighborhoods.

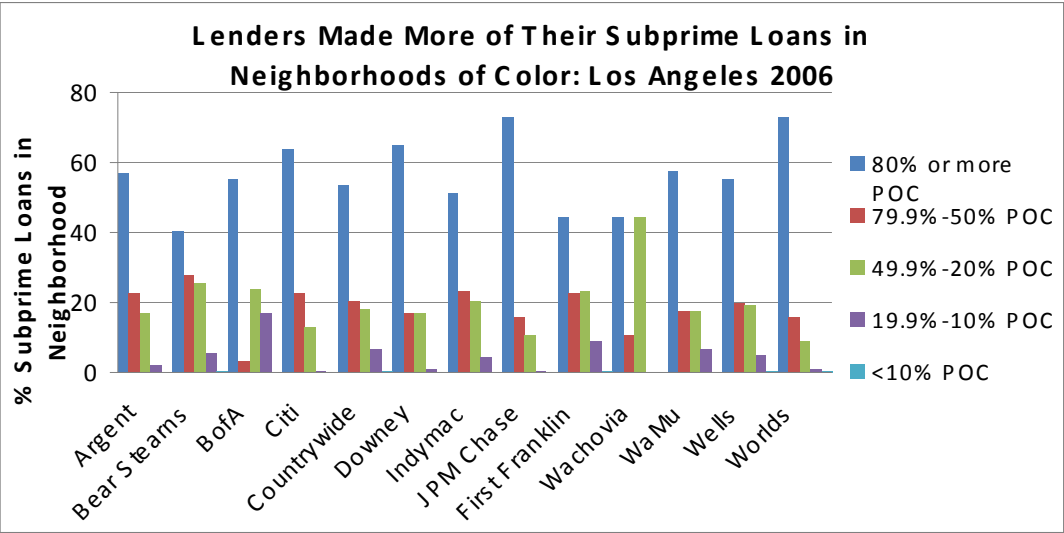


*For Individual Lenders*

In Oakland, a city with higher proportions of people of color, racially concentrated subprime lending by neighborhoods was especially stark. Every lender analyzed made MOST of its subprime loans in neighborhoods where 80% or more of residents are people of color.



Similarly in Los Angeles, nearly all lenders made more of their subprime loans in high minority neighborhoods.



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# CONCENTRATED FORECLOSURES

## Unsustainable loans created concentrated foreclosures in California neighborhoods

Disproportionate and targeted subprime and risky lending resulted in a devastating concentration of foreclosures in communities throughout the state. The impacts of foreclosure are profound and broad.

Families are losing the largest asset they will likely ever own. Children are forced to leave their schools. Neighboring homeowners witness a further devaluation of their property value, which can propel them towards foreclosure. Blight and crime in vacant homes destabilize entire neighborhoods. Renters are forced out of their homes through no fault of their own, often unlawfully and in the name of the largest financial institution trustees. Local governments collect less tax revenue which means less support for critically needed services. Small businesses, large engines for local hiring, suffer as owners fall under the weight of home equity lines of credit (HELOCs), putting home, business, and workers at risk. And the regional economy suffers as there are fewer dollars to support economic activity and promote hiring in a community.

The foreclosure crisis has created one of the greatest losses of personal and neighborhood wealth in U.S. history. One estimate places the total loss of wealth among African American households at between \$72 billion and \$93 billion for subprime loans taken since 2000.<sup>16</sup> The NAACP has noted that communities of color could lose \$213 billion as a result of subprime lending and foreclosure.<sup>17</sup> The racial wealth gap was already widening as subprime lending grew exponentially, leading right into the subprime meltdown. Between 1992 and 2007, the dollar difference between median family wealth for whites and people of color had increased.<sup>18</sup>

All told, an estimated \$2.7 trillion in housing wealth may be lost as result of the subprime and foreclosure crisis.<sup>19</sup> The Congressional Oversight Panel reported that from peak to trough, the net worth of households and nonprofits in America fell by \$12.7 trillion.<sup>20</sup>

And again, California has been particularly hard hit. In 2008, the median existing home price in California was \$342,000, 30% off its peak in 2006. The projected

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<sup>16</sup> Melvin L. Oliver and Thomas M. Shapiro, "Sub-Prime as a Black Catastrophe, September 22, 2008, citing

<sup>17</sup> Washington Bureau NAACP, "NAACP Legislative Priorities for the 111<sup>th</sup> Congress (2009-2010),"

<sup>18</sup> Applied Research Center, "Race and Recession," May 2009, p. 33. ARC analyzed data from the Survey of Consumer Finance, released by the Federal Reserve in 2007.

<sup>19</sup> United for a Fair Economy, "The Silent Depression: State of the Dream 2009," p. 48, citing a report of the U.S. Congress Joint Economic Committee.

<sup>20</sup> Congressional Oversight Panel December Oversight Report, "Taking Stock: What has the Troubled Asset Relief Program Achieved?" December 9, 2009, p. 17 (citing a Federal Reserve Statistical Release).

median price in 2012 is \$291,000 according to the California Research Bureau.<sup>21</sup> California experienced the third worst decline in housing prices, 22.7%, nationally, in the 12 months ending in April 2009, according the Congressional Oversight Panel.<sup>22</sup> Personal bankruptcies skyrocketed in California, increasing 58.8% last year compared to a national average increase of 32%, as California housing prices soared and then collapsed.<sup>23</sup>

The link between high-risk lending and foreclosure is clear. Researchers from the Federal Reserve Bank of San Francisco confirmed that African Americans and Latinos in California had less access to federally regulated bank lenders and greater access to mortgage brokers and independent mortgage companies, and that these mortgage market channels played an important role in the likelihood of receiving a riskier loan product. No wonder that the default rate for African American and Latino homeowners in that study was more than twice that of whites, and that approximately two-thirds of all foreclosures in California have been among African American, Latino and Asian American borrowers.<sup>24</sup>

The Pew Hispanic Center analyzed data for all U.S. counties and found that among other factors, higher shares of immigrant residents and greater incidence of higher-priced lending to blacks and Latinos in counties contributed to higher rates of foreclosure.<sup>25</sup>

In California, the first formal notice a loan servicer files to begin the foreclosure process is known as a notice of default (or Preforeclosure, in our data set). If the borrower does not cure the default, sell the home or come to another agreement with the servicer, the servicer may later file a notice of trustee sale (or Auction) which identifies when the home will be sold. If no resolution is found before then, the servicer will sell the home on that date, or take ownership of the home if there are no other buyers (Bank Owned). Thus, Bank Owned properties are a subset of Auction properties which are a subset of Preforeclosure properties.

In 2008, as a result of predatory lending, declining home values, and rising unemployment, California communities were hit hard by foreclosure filings. The City of Sacramento had 14,557 notices of default filed in 2008. That year, Sacramento was ranked as the metro area with the ninth worst foreclosure rate by RealtyTrac, with one filing for every 19 households.

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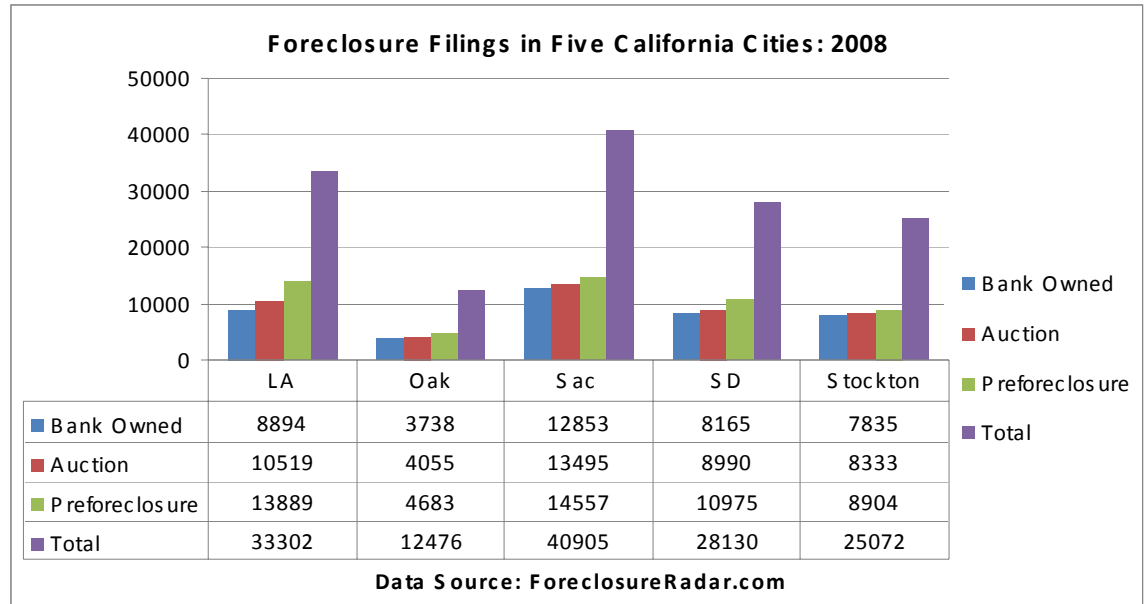
<sup>21</sup> Rani Isaac, "Briefly Stated: When will the pain end?" prepared for the Assembly Banking & Finance Committee, California Research Bureau, March 15, 2009.

<sup>22</sup> Congressional Oversight Panel October Oversight Report, "An Assessment of Foreclosure Mitigation Efforts After 6 Months," October 9, 2009, p. 22.

<sup>23</sup> Sara Murray, "Wave of Bankruptcies Hits States Hammered by Housing Bust," The Wall Street Journal, January 7, 2010.

<sup>24</sup> Carolina Reid and Elizabeth Laderman (2009), "The Untold Costs of Subprime Lending: Examining the Links among Higher-Priced Lending, Foreclosures and Race in California," presented at the Greenlining Homeownership Forum, San Francisco, May 5, 2009.

<sup>25</sup> Rakesh Kochhar, Ana Gonzalez-Barrera, and Daniel Dockterman, "Through Boom and Bust: Minorities, Immigrants and Homeownership," Pew Hispanic Center, May 12, 2009.



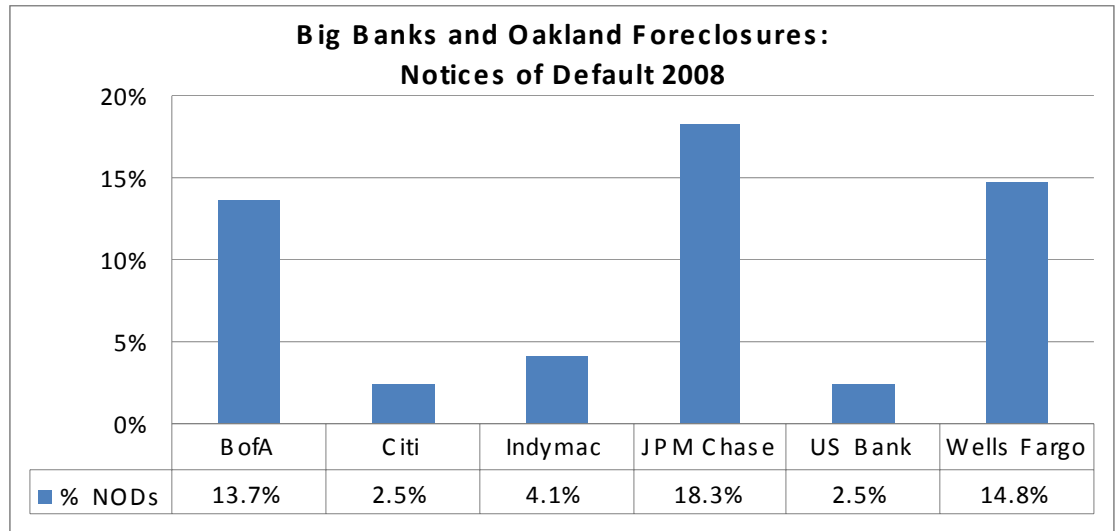
### Big Banks Responsible for Much of Foreclosure Activity

The Big Banks highlighted in this report were responsible for a large number of notices of default filed in each city,<sup>26</sup> from a low of 36.5% in San Diego, to a high of 57.5% of all Notices of Default filed in Stockton in 2008.<sup>27</sup>

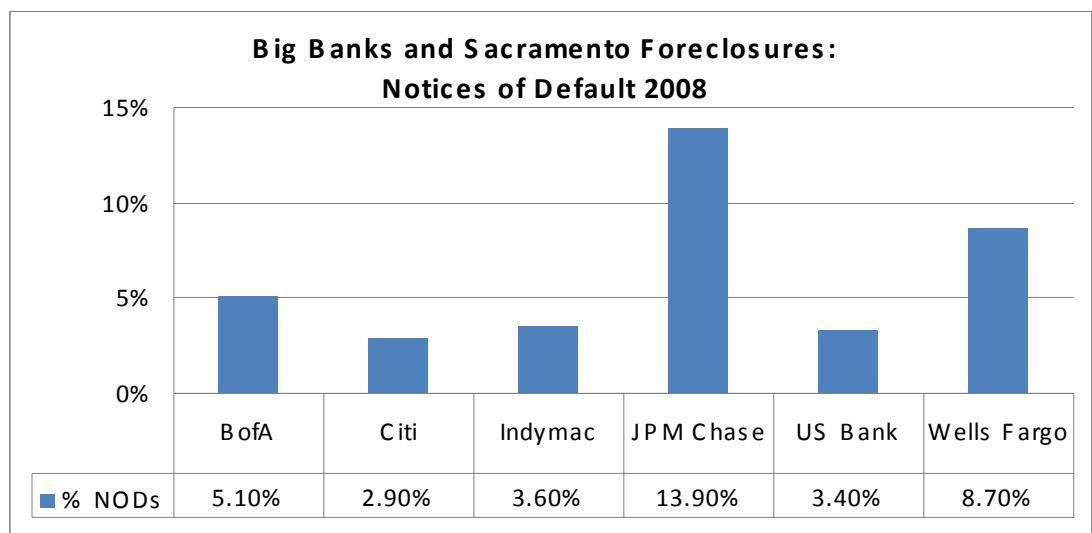
This dynamic was one of a number of consequences of bank consolidation. As large financial institutions acquired other large financial institutions, more and more lending and foreclosure activity was controlled by a few large companies. Bank mergers which would normally be subject to regulatory oversight and community input, were instead often arranged by the very agencies that would otherwise have scrutinized the transactions. And a number of recent mergers saw large option ARM lenders (Countrywide, Wachovia/World Savings, and Downey Savings and Loan) purchased by companies that had little or no experience lending or servicing option ARM loans (Bank of America, JPMorgan Chase, and US Bank).

<sup>26</sup> The foreclosure data analyzed here include a field labeled "lender" which appears to list entities more commonly thought of as the servicer or trustee. For this analysis, all servicers, trustees and their affiliates listed in the foreclosure data as "lender" are aggregated. This data likely undercounts the involvement of large banking corporations, since only one entity is listed as "lender" in the data, even though various companies were involved as originating lender, securitizer, servicer and/or trustee.

<sup>27</sup> In November of 2009, US Bank purchased the assets of FBOP (California National Bank, Pacific National Bank, and San Diego National Bank, amongst others), and OneWest/Indymac purchased the assets of First Federal Bank. These acquisitions were not captured in the foreclosure analysis in this section though they would have contributed modestly to the results for US Bank and OneWest/Indymac.



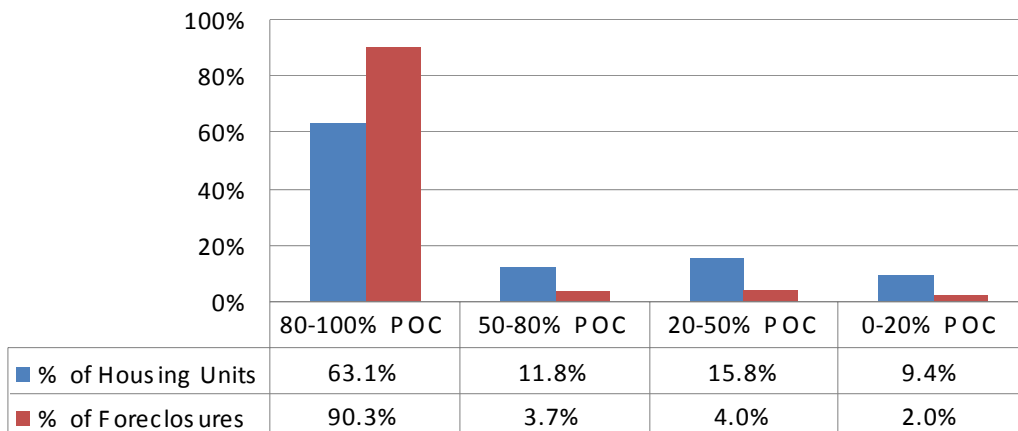
JPMorgan Chase and its affiliates were responsible for more foreclosure filings than the other Big Banks in three out of five cities surveyed. Chase took a close second place to Bank of America in Los Angeles and Stockton, but still managed to file 15.2% and 16.5% of all notices of default filed in L.A. and Stockton in 2008, respectively.



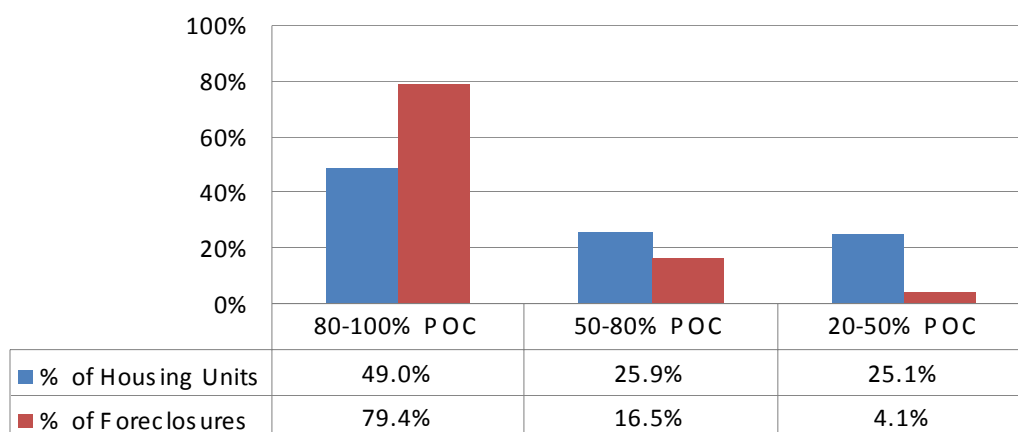
## Foreclosures Concentrated in Neighborhoods of Color, Less in LMI Communities

In each of the five survey cities, foreclosure activity was disproportionately taking place in neighborhoods of color. Looking at Bank Owned or REO foreclosures recorded in 2008 by zip code in each city, neighborhoods of color suffered a larger percentage of citywide foreclosures than their share of all housing units in each of the five survey cities. For example, in Los Angeles, zip codes where 80% or more of the residents were people of color contained over 63% of the housing units in the city, but suffered over 90% of the city's foreclosures. In Oakland, such neighborhoods of color contained less than half of all housing units in Oakland, but nearly 80% of all foreclosures.

**Los Angeles Foreclosures by Race of Zip Code: 2008**

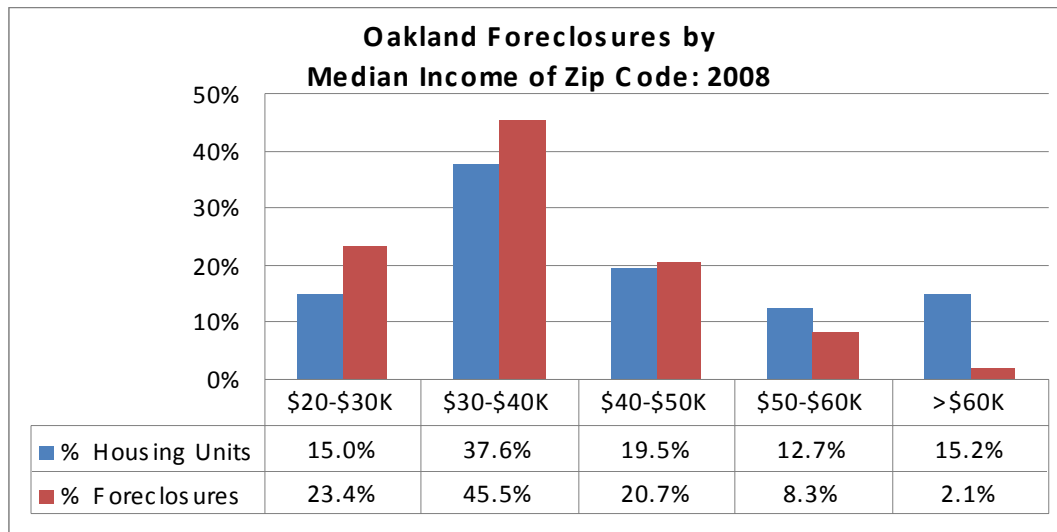


**Oakland Foreclosures by Race of Zip Code: 2008**

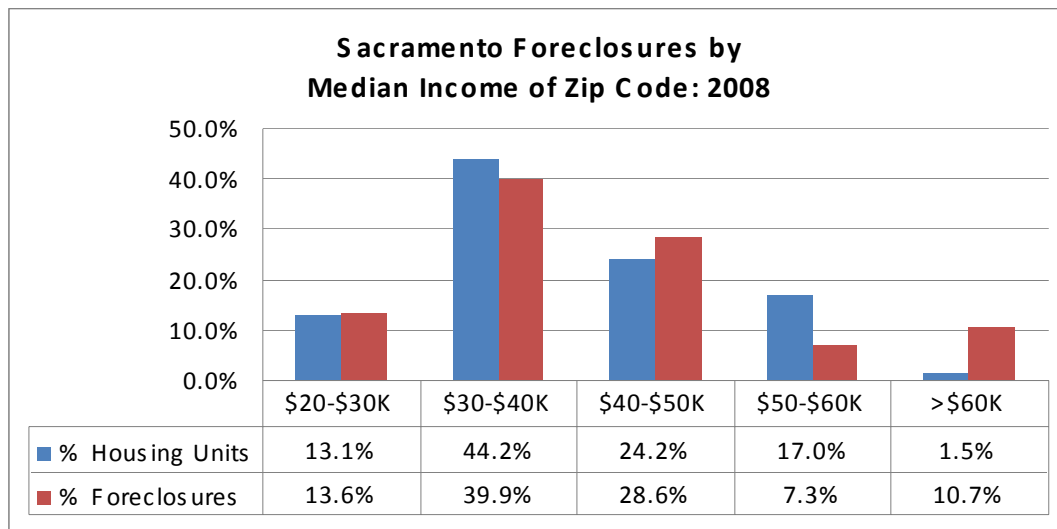




A similar dynamic could be found when looking at foreclosures by median income of a neighborhood, but income was less clearly correlated to higher foreclosure concentrations. For example, in Oakland, the lower the median income of a zip code, the higher the prevalence of foreclosures as compared to the percentage of citywide housing units in those zip codes. Specifically, zip codes with a median income under \$30,000 per year suffered over 23% of all foreclosures in the city, although they contained only 15% of housing units.



But in other cities, the picture was more mixed. In Sacramento, for example, the zip codes with the highest median income of over \$60,000 per year represented under 2% of housing units in Sacramento, but had almost 11% of the foreclosures.



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# FORECLOSURE PREVENTION FAILING

## Lenders' failure to work with families to prevent foreclosures has devastated California neighborhoods

By any measure, loan servicers and trustees on pools of mortgage loans have failed struggling borrowers and their communities. The Congressional Oversight Panel recently found that foreclosure starts outpaced new HAMP trial modifications at a rate of more than 2:1.<sup>28</sup> Professor Alan White has noted that "permanent modifications of securitized mortgages are still at half the level that prevailed before the Administration's Home Affordable program (HAMP) was announced."<sup>29</sup>

Despite all of the pledges of aid, industry initiatives and government programs, the bottom line is that loan servicers are not required to help anyone avoid foreclosure. Indeed, it seems that it is in their interest not to do so.<sup>30</sup>

As the foreclosure crisis continues, more and more homeowners suffer from negative equity, or, are "underwater," owing more on their loans than their homes are worth. For this growing number of Californians,<sup>31</sup> the solution is for lenders to reduce the amount of principal they owe on their loans so that the principal is more in line with the value of their home. There is mounting evidence that this solution is good not only for affected homeowners, but also their neighbors and neighborhoods, and perhaps even the investors on the loans.<sup>32</sup>

Recently, researchers at the Federal Reserve Bank of New York found that loan modifications that combine interest rate reductions with loan principal reductions can double the likelihood that subprime borrowers will be able to continue making

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<sup>28</sup> Congressional Oversight Panel October Oversight Report, "An Assessment of Foreclosure Mitigation Efforts After 6 Months," October 9, 2009.

<sup>29</sup> Alan M. White, "November 26, 2009 Columbia Collateral File Summary Statistics," available at [www.valpo.edu/law/faculty/awhite/data/index.php](http://www.valpo.edu/law/faculty/awhite/data/index.php).

<sup>30</sup> See for example, Peter Goodman, "Lucrative Fees May Deter Efforts to Alter Troubled Loans," New York Times, July 29, 2009 (noting that by pushing borrowers to delinquency and then leaving them there, servicers can collect significant fees), and Renae Merle, "Foreclosures Are Often In Lenders' Best Interest: Numbers Work Against Government Efforts to Help Homeowners," The Washington Post, July 28, 2009 (citing a study that posited that one category of borrowers will get caught up on payments and therefore not need a loan modification, and that another category of borrower will never get caught up, even with a modification).

<sup>31</sup> As of June 2009, 42% of all mortgaged properties in California were underwater, and 81% of properties in Stockton were underwater. Brent T. White, "Underwater and Not Walking Away: Shame, Fear and the Social Management of the Housing Crisis," Arizona Legal Studies, Discussion Paper No. 09-35, October 2009, citing data from First American CoreLogic (August 13, 2009).

<sup>32</sup> The Federal Reserve Board has reportedly sought to reduce principal loan amounts on the Bear Stearns and American International Group mortgage loans it took control of (see, Neil Irwin and Renae Merle, "Fed Adopts Program to Stem Foreclosures: Mortgage Renegotiation to Focus On Reducing Amount of Principal Owed," The Washington Post, January 28, 2009). Additionally, a University of North Carolina study found that "loan modifications with a principal reduction have the lowest redefault risks and can create even better cash flow for investors in many cases, especially in states with more subprime lending, steepest price declines, and highest foreclosure rates," like California. (Center for Community Capital, "Tailoring Loan Modifications: When is Principal Reduction Desirable?" Working Paper, August 23, 2009).

payments on their modified loans. Yet they found that loan servicers were reluctant to reduce loan principal.<sup>33</sup>

Loan servicers have responded to calls for principal reduction by warning about the moral hazard that could come with helping borrowers in trouble, thereby creating incentives for borrowers to make bad decisions believing they can always get help if they fall behind. In fact, many servicer agreements allow for principal reductions and many investors are willing to have principal reduced on option ARMs they own, but servicers are reluctant to do so, in part because they often own the borrower's second lien loan, which creates a conflict of interest.<sup>34</sup>

Finally, there is something profoundly offensive about large financial institutions raising concerns about moral hazard after they received trillions in federal and taxpayer assistance for creating a worldwide financial crisis because they placed too many large bets and engaged in greedy and highly risky behavior. One estimate places total bailout dollars to Wall Street at \$14 trillion.<sup>35</sup> At the same time, Wall Street firms produced a record \$49.7 billion in profits in the first nine months of 2009, with the bonus pool for Wall Street employees based in New York City expected to exceed the \$18.4 billion paid in 2008.<sup>36</sup>

As one example, CRC members had long confronted Washington Mutual about its problematic lending practices, including its option ARM loans and its subprime lending through its Long Beach Mortgage subsidiary.<sup>37</sup> The Long Beach loans were often made to Latino borrowers in California at rates much higher than the industry as a whole. When Washington Mutual was asked about principal reduction for its growing number of underwater and distressed homeowners, Washington Mutual replied that it would not want to create a moral hazard by offering that assistance. Weeks later, Washington Mutual was shut down for having made too many bad loans. The company filed for bankruptcy protection, and was purchased by JPMorgan where many of its officers now work. JPMorgan received billions directly in TARP funds, and benefited indirectly from the broad assistance offered by the federal government to all financial institutions. JPMorgan Chase is now highly profitable.

Yet the banking industry continues to oppose regulatory reform that would prevent bank risk-taking from recurring, while also opposing judicial modification and other measures designed to provide some relief to struggling consumers. During this time, countless Washington Mutual, Long Beach Mortgage and Chase borrowers have lost their homes and given up with no relief in sight. Where does the moral hazard lie?

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<sup>33</sup> Andrew Haughwout, Ebere Okah, and Joseph Tracy, "Second Chances: Subprime Mortgage Modifications and Re-Default," Federal Reserve Bank of New York, Staff Report no. 417, December 2009.

<sup>34</sup> "Conflicts Hinder Option ARM Modifications," Inside B&C Lending, December 18, 2009.

<sup>35</sup> Nomi Prins and Krisztina Ugrin, "Bailout Tally Report," Supplemental Analysis for *It Takes a Pillage: Behind the Bailouts, Bonuses and Backroom Deals from Washington to Wall Street*, December 1, 2009, Nomi Prins LLC.

<sup>36</sup> Andrew Ross Sorkin, "New York Comptroller is Bullish on Wall Street," New York Times DealBook, December 16, 2009.

<sup>37</sup> A recent Huffington Post investigation documented the fraudulent lending that occurred at Long Beach Mortgage. David Heath, "At Top Subprime Mortgage Lender, Policies Were an Invitation to Fraud," Huffington Post, first posted December 21, 2009.

## **Loan Modification Data Confirm Banks Are Failing Homeowners**

Since the beginning of the foreclosure crisis, banks have failed to aid homeowners as they have promised to do in periodic press releases, and as they have contracted to do as part of the Treasury Department's Home Affordable Modification Program.<sup>38</sup>

A major obstacle to progress has been the lack of transparency, rules and oversight of loan servicers and their activities. The Administration, as part of HAMP, has begun to collect a good deal of data from loan servicers, and more data about loan modifications has been made public than at any other time, including servicer-specific data showing the performance of each loan servicer. At the same time, the vast majority of loan modification data of interest to the public is not generally available, including how many loan modifications are happening in a given city, how many borrowers in California should be getting loan modifications, the terms of the modifications, and the race and ethnicity of borrowers who are getting modifications as well as those who aren't. CRC has called on the Administration to collect and make public such data, without which there is no way to monitor banks and hold them accountable.<sup>39</sup>

But analyzing loan level data collected for investors in securitized mortgage pools<sup>40</sup> sheds some light on the kinds of loans wreaking havoc in our communities, as well as the weak response from loan servicers.<sup>41</sup>

## **Loans in California Communities are More Problematic**

One of the reasons California communities are suffering more than those in other states is that we are home to more problematic loans. Looking at a sample of approximately 3.5 million securitized loans, California cities are more likely than the national average to be saturated with adjustable rate mortgage (ARM) loans, and loans with low documentation, such as stated income loans.

High-risk, costly and predatory loans put added pressure on working families who are struggling to keep up with their payments and save their homes. But they also make it more difficult for homeowners to obtain solutions from loan servicers who remain unwilling to reduce principal to any significant degree. The solutions that are in place for homeowners, such as they are, are less helpful for California homeowners who are more likely to have difficult loans, more likely to be underwater, and less likely to get loan modification help.

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<sup>38</sup> See California Reinvestment Coalition's Chasm Between Words and Deeds reports, which tabulated surveys of housing counseling agencies in the state regarding the performance of the industry in modifying home loans, available at [www.calreinvest.org](http://www.calreinvest.org).

<sup>39</sup> CRC analysis of the President's announcement regarding HAMP, February 23, 2009.

<sup>40</sup> Professor Alan White of Valparaiso Law School has determined that this data set contains more than 3.5 million subprime and alt-A mortgages, including about one-sixth of all foreclosures pending, and about 20% of the monthly total modifications in November 2008. See, "Deleveraging the American Homeowner: The Failure of 2008 Voluntary Mortgage Contract Modifications," Connecticut Law Review, Vol. 41, p. 1107, 2009, Alan M. White, Valparaiso University Law School.

<sup>41</sup> CRC is grateful to PhD candidate Jesus Hernandez for his assistance in analyzing this data.

With a plethora of subprime lenders and problematic brokers located in California, and an affordability crisis that made it hard for borrowers to purchase homes yet lucrative for lenders and brokers to sell loans, conditions were ripe for Californians to be victimized. The California Research Bureau estimated that as of December 2007, California had 21.7% of all of the riskiest loans (Alt A and subprime).<sup>42</sup> But subprime lending only tells part of the story in California. While predatory and fraudulent lending helped precipitate the current foreclosure crisis, a wave of a resetting option ARM loans threatens to keep the state immobilized by foreclosure through 2010 and beyond.

Option ARM loans undoubtedly have caused great harm to California consumers and neighborhoods. For a time, these complex loan products proliferated below the radar of public attention, in part because public HMDA data do not identify option ARM loans as they do subprime loans. In fact, option ARM loans would most likely be reported as low-cost prime loans under HMDA.

But beginning in 2004, the signs were growing that option ARM loans were being sold in much greater numbers to consumers who could not afford and did not understand them. The lending industry began to look to option ARMs as an “affordability product” to enable working class Californians to purchase homes that were really beyond their means. Through comments to federal and state regulators, and through hearings, community groups in the state warned policy makers of the impending crisis that would result from such abusive lending.<sup>43</sup>

While it’s not possible yet to know the prevalence of option ARMs in neighborhoods of color across the state, the city of Oakland provides a glaring example of how these loans affected African American and Latino borrowers. World Savings (which then became Wachovia, and after that was bought by Wells Fargo) specialized in primarily option ARMs and had a much stronger presence in Oakland and Alameda County than the rest of the state—capturing 13.86% of the African American mortgage market in 2007, compared to 5.12% of the white market.<sup>44</sup>

Moody’s Investors Service estimates that there are \$500 billion in outstanding option ARM loans in the nation and that 54% of outstanding option ARM loans that have been securitized were made to borrowers in California.<sup>45</sup> And these loans, subject to the most significant payment shock, are most likely to lead to foreclosure. A recent report from federal bank regulators noted that “payment option adjustable rate mortgages performed the worst, making up 16% of seriously delinquent loans and 11.9% of foreclosures in process.”<sup>46</sup>

Option ARM loans represent an important and pernicious subset of Adjustable Rate Mortgage (ARM loans), which impacted a large number of Californians who

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<sup>42</sup> Rani Isaac, “Briefly Stated: When will the pain end?” prepared for the Assembly Banking & Finance Committee, California Research Bureau, March 15, 2009.

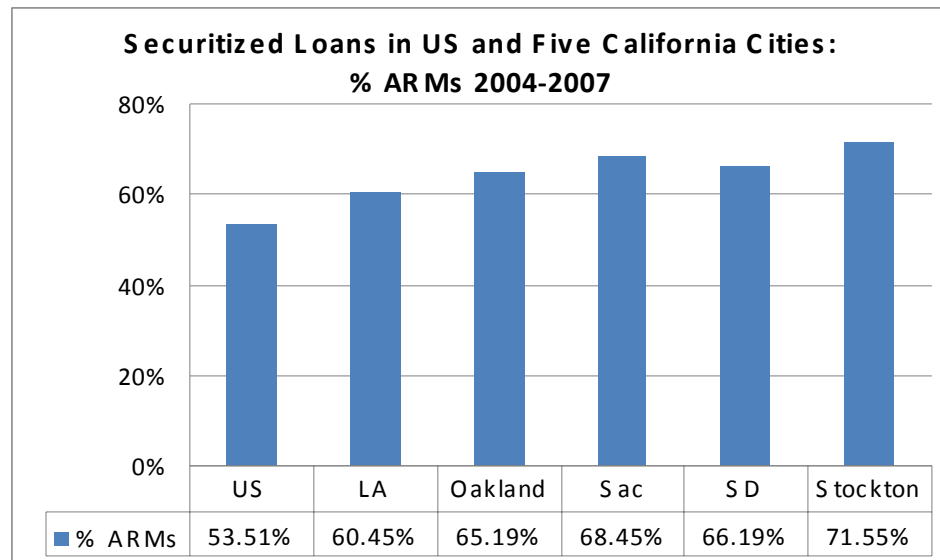
<sup>43</sup> See, for example, Heidi Li and James Zahrada, “Viewpoint: Mortgage Hearing Shows Need for Better Regulation,” *American Banker*, July 7, 2006.

<sup>44</sup> See “Foreclosed: The Burden of Homeownership Loss on City of Oakland and Alameda County Residents”, December, 2007, by Housing and Economic Rights Advocates and CRC

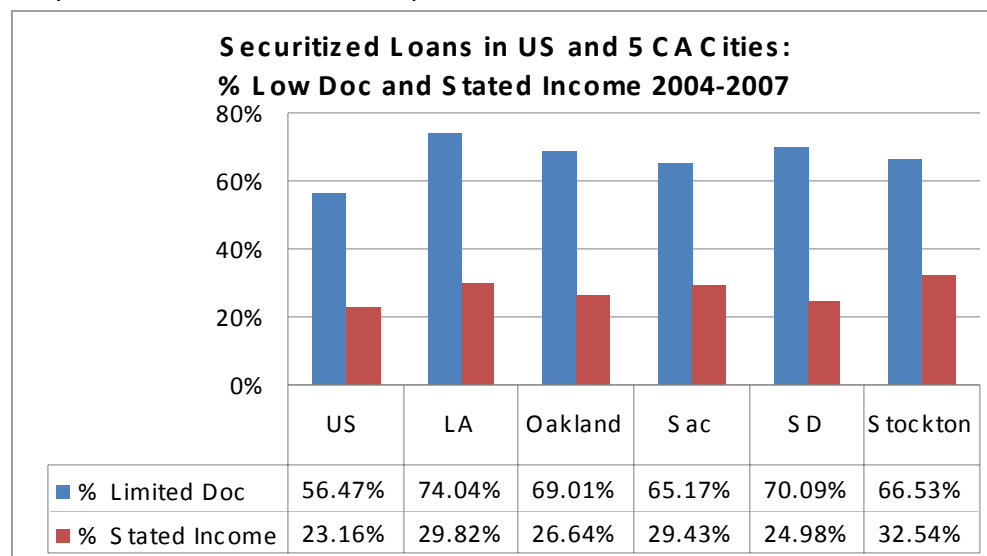
<sup>45</sup> “Conflicts Hinder Option ARM Modifications,” *Inside B&C Lending*, December 18, 2009.

<sup>46</sup> Cheyenne Hopkins, “Housing Markets Still Struggling,” *American Banker*, December 22, 2009.

could not meet resetting and rising payment obligations, triggering our current crisis. Once again, Californians were more likely to be stuck with ARM loans than the rest of the country. For example, over the last few years, securitized mortgages in Stockton were much more likely to come with adjustable rates. 71.55% of loans in our sample in Stockton were ARMs, as compared to 53.51% of all loans in the entire U.S. sample coming with adjustable rates.



A similar picture is painted in looking at loans that were not fully documented, allowing brokers and lenders to put borrowers into loans they could not afford. In Los Angeles, nearly three-fourths of all loans in the sample were made with limited documentation, compared to 56% for all loans in the sample. A pernicious subset of limited documentation loans were stated income loans, where lenders did not verify borrowers' income at all. In Stockton, nearly one-third of loans in the sample were stated income, compared with 23% for the whole U.S.

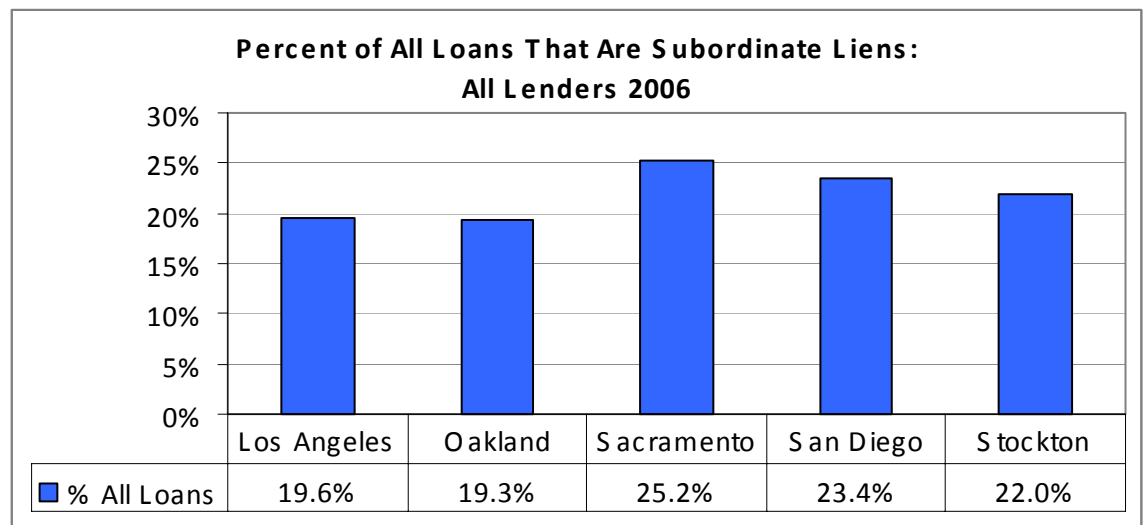


## The Subordinate Lien Problem

A large number of loans originated in 2006 were subordinate liens.<sup>47</sup> In California, 21.37% of all loans that year were subordinate liens, for a total of 377,872. These loans are particularly problematic for a few reasons. For one, many of these loans were piggyback loans, designed by lenders to allow borrowers to evade private mortgage insurance, but resulting in borrowers being saddled with two or more loans whose Combined Loan to Value ratio approached 100%, which left borrowers with little to no equity in their homes.

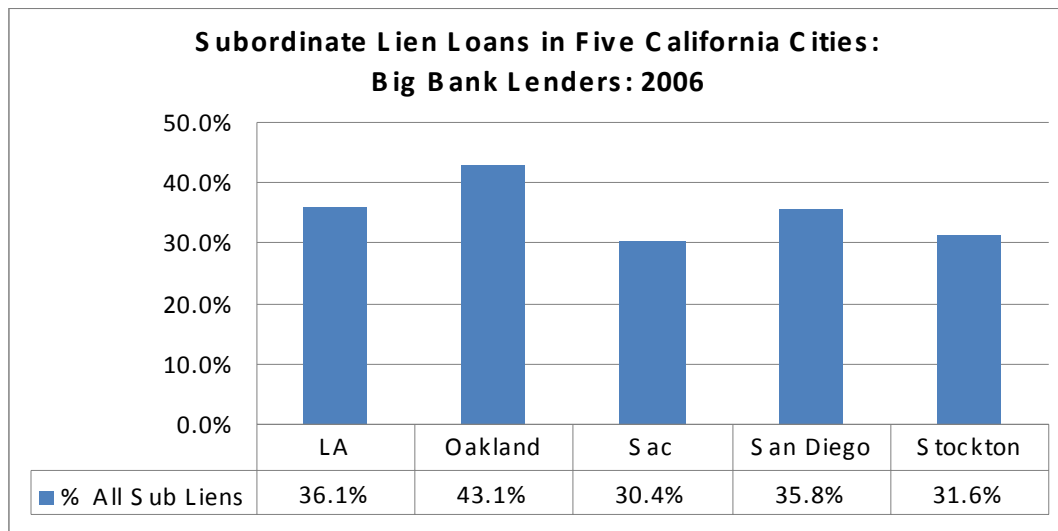
Additionally, many subordinate lien loans are Home Equity Lines of Credit (HELOCs), which are not subject to several of the few consumer protections that exist for first lien loans. CRC and other advocates have long urged the Federal Reserve to close consumer protection loopholes that it has created for HELOC loans.

Lastly, and most significantly, the presence of subordinate liens is a major barrier to foreclosure prevention and loan modification. Holders of second lien loans have been reluctant to agree to modifications, and this has been used as an excuse by servicers NOT to offer loan modifications to distressed borrowers. Even though banks are large holders of second lien loans, and most of these financial institutions have agreed to participate in the Administration's Home Affordable Modification Program, modifications are not being done. Bank of America recently agreed to be the first servicer to participate in the Administration's second lien program, which is aimed at solving this problem.



<sup>47</sup> See for example, Allen Fishbein, Piggyback Loans at the Trough: California Subprime Home Purchase and Refinance Lending in 2006, p.1, Consumer Federation of America (January 2008).

Indeed, many of the subordinate lien loans made in 2006 were made, and are currently owned, by Big Bank Lenders. Bloomberg has reported that the four big banks, who are the largest servicers of investor-owned first mortgages, have a combined total of \$450 billion in home equity debt on their own books.



## Loan Mods Are Scarce

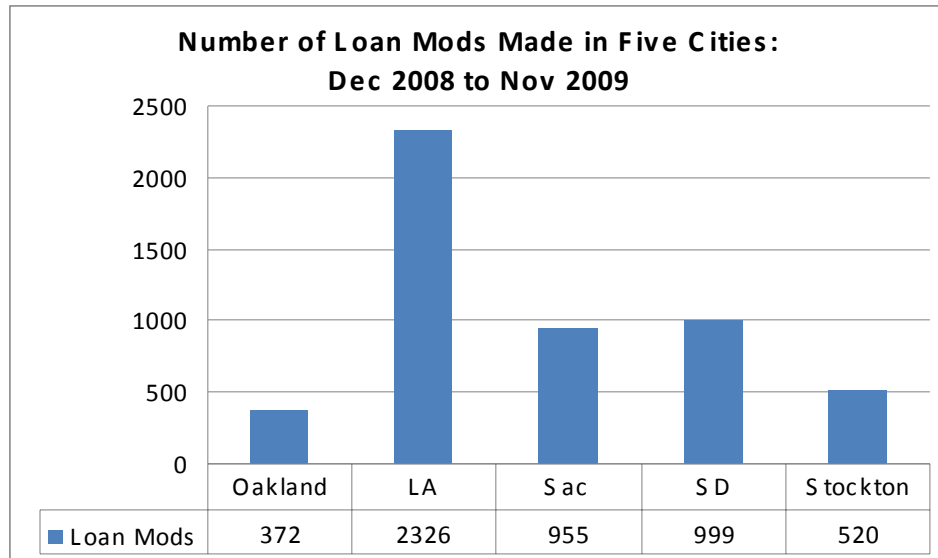
Loan modifications are the Holy Grail of foreclosure prevention. Everyone wants one—but they are nowhere to be found. Data on loan modifications by city has been non-existent. The Treasury Department recently released data on the top 10 metropolitan areas where the most loan modification activity occurred.<sup>48</sup> But this data include trial modifications, not just permanent modifications. Additionally, it encompasses large metropolitan areas which can mask what is happening at the neighborhood, and even the city, level. Finally, the Treasury data only include two California metro areas out of the top 10 most active areas for loan mod activity, despite the fact that over the last several months, California metro areas often comprised 6 of the top 10 most affected metropolitan areas, according to Realtytrac.<sup>49</sup> This all suggests that California communities are getting left behind by current foreclosure prevention efforts.

Sample loan level data, representing roughly 20% of the loan modification market, show poor modification results. Over the course of an entire year, Sacramento and San Diego saw less than 1,000 permanent modifications, Oakland had only 372, and Los Angeles, only 2,326.

<sup>48</sup> Available at the Making Home Affordable website, [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov).

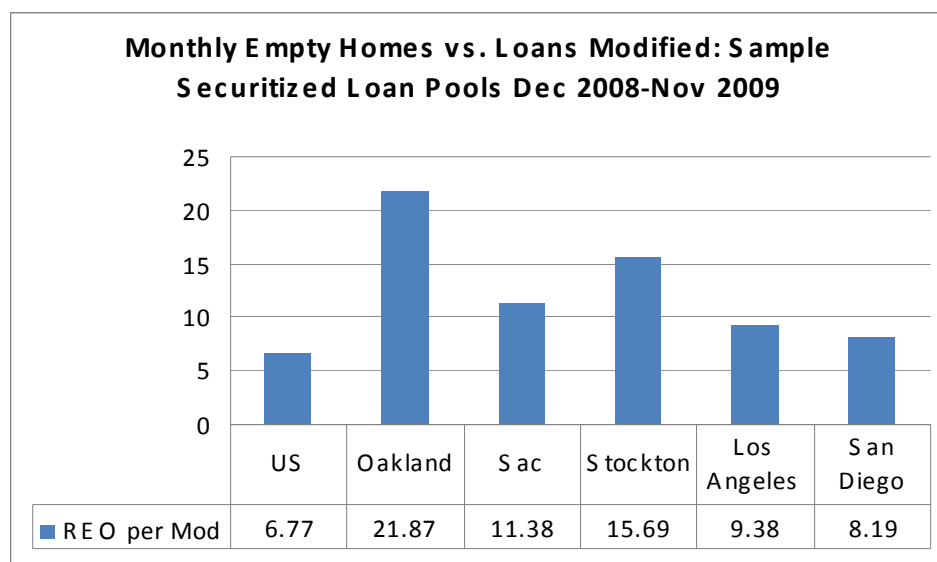
<sup>49</sup> See Realtytrac press releases, available at [www.realtytrac.com](http://www.realtytrac.com)





### Loan Mods are Scarcer in California

Reviewing loan modifications and REOs over a 12-month period reveals that California cities experienced fewer loan modifications per number of foreclosed loans than the U.S. as a whole, for our large sample of securitized loans. In Oakland for example, there were an average of 21.87 foreclosed properties per month for every loan modification made per month in the sample, compared to only 6.77 for the U.S. as a whole. In other words, during any month in 2009, Oakland had nearly 22 properties in foreclosure for each loan modification made per month, or 15 more properties in foreclosure for every loan modification made per month than the U.S. rate. In each of the California cities surveyed, the ratio of properties in foreclosure status to loan modifications made per month was worse than for the U.S. as a whole.



## **An Unequal Playing Field**

Anecdotal evidence suggests that borrowers are not being treated equally. In a March 2009 survey by the California Reinvestment Coalition, two-thirds of housing counselors reported that they believed borrowers of color were receiving worse foreclosure prevention outcomes than white borrowers. Counselors were not certain why this was the case, though a majority of respondents cited language issues as a possible factor.<sup>50</sup>

In future analysis, CRC hopes to drill down further and examine whether the likelihood of getting a loan modification, as well as terms of the loan modifications given, differ by neighborhoods and cities within California. This research will demonstrate whether loan servicers are treating all borrowers and neighborhoods fairly, or whether fair housing concerns should now be extended to the loan modification arena.

In the meantime, the Treasury Department is to be commended for collecting detailed race and ethnicity data from servicers,<sup>51</sup> but should make this data public and aggressively pursue fair lending violations to ensure that tax payer funds affirmatively further fair housing.

### **Tenants Evicted from Foreclosed Apartments in L.A.**

In June of 2009, four Latino families living at a foreclosed apartment building in North Hollywood lost their homes to a bank eviction. Most of the tenants were low-income immigrants with children, who had lived in their apartments for as long as 10 years. Trash services were cut off, and the building, which had already received several citations for health and safety violations, fell into further disrepair.

The tenants said they received a call from a bank representative instructing them not to pay rent while the building was going through foreclosure. But a few months later, another bank representative came by to demand the overdue back payments. Meanwhile, the tenants, who spoke limited English, had no idea who to deal with or where to send their payments.

Finally, eviction notices arrived from the property's trustee, U.S. Bank. The tenants had only a few weeks to move out and find new places to live.

"I've pleaded with the bank to give us a chance to pay the rent, to allow us to stay," said Liset Herrera, a mother of three. "I've pleaded with the bank to have a heart."

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<sup>50</sup> California Reinvestment Coalition, "The Ongoing Chasm Between Words and Deeds V: Abusive Practices Continue to Harm Borrowers and Communities in California," March 2009.

<sup>51</sup> Home Affordable Modification Program FAQs, P. Government Monitoring Data ("Servicers must request information regarding the race, sex, and ethnicity (Government Monitoring Data) of any borrower (including any co-borrower) who seeks a modification under HAMP), Q.84, p. 21, at [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov).

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## RE-REDLINING

### Lenders are denying credit to communities most affected by bad bank practices and most in need of revitalization

In giving TARP funds to the largest financial institutions, the Treasury Department stated it was limiting capital injections from the Capital Purchase Program (CPP) to healthy institutions so that they could turn around and modify home loans and lend again to homeowners and small business starving for credit.

While banks returned to profitability having received assistance from Main Street taxpayers, Main Street communities continue to face a wall when seeking loans. From October 2008 to September 2009, lending by the largest 20 banks in the CPP decreased by 13.7%.<sup>52</sup> Lending by the biggest four banks decreased by 15% from April to October.<sup>53</sup>

Mortgage lending in 2008 fell for everyone, but even more so for borrowers of color who saw nearly double the rejection rates of whites. Nearly one out of two African Americans and Latinos seeking a home loan or refinance were denied, compared to about one in four whites.<sup>54</sup> The analysis of HMDA data, by the Charlotte Observer, found that applicants of color were denied more often even when they had comparable income levels with whites—which is consistent with the way that redlining and subprime lending has worked. Race discrimination in lending operates at a systemic level to the detriment of applicants of color regardless of their individual economic characteristics, in many cases putting them into subprime loans when they qualified for prime rates.<sup>55</sup>

With the recession dampening the market and the credit freeze shutting out many new homebuyers, neighborhoods ravaged by foreclosures are becoming increasingly vulnerable to another wave of real estate speculation. In some areas of the country, private investors are snapping up bargain-basement properties by the hundreds for flipping, rental, or other “rent-to-own” schemes.<sup>56</sup>

The Federal Housing Administration has traditionally served homebuyers with low credit scores and little money for down payments—allowing access to homeownership for underserved communities. In the wake of the subprime meltdown, as underwriting tightened for all loans, FHA mortgages were the “only game in town” left for many new homebuyers. The agency recently announced

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<sup>52</sup> Congressional Oversight Panel December Oversight Report, “Taking Stock: What Has the Troubled Asset Relief Program Achieved,” December 9, 2009, p. 38.

<sup>53</sup> Shahien Nasiripour, “Nation’s 4 Biggest Banks Cut Business Lending by \$100 Billion Since April,” Huffington Post, January 2, 2010, first posted December 16, 2009.

<sup>54</sup> “Minority loan gap widens,” by Rick Rothacker and Ted Mellnik, Charlotte Observer, 7/13/09

<sup>55</sup> See “Understanding the Subprime Crisis: Institutional Evolution and Theoretical Views” by Gary Dymksi, 1/5/2010

<sup>56</sup> “There Goes the Neighborhood,” by Alyssa Katz, The American Prospect, 9/10/09

tighter lending criteria, however, requiring higher fees and a 10% down payment for buyers with lower credit scores.

For neighborhoods of color that have experienced the cycle of predatory lending, concentrated foreclosures and evictions, restrictions to fair financial access and barriers to creditworthy borrowers mean that rebuilding and revitalizing will not happen in the interest of the communities that lived there.

**Sharon Kinlaw, assistant director of Fair Housing Council of San Fernando Valley:**

In certain neighborhoods, when you see an REO property go on the market, within a day they would have 15 or 20 bids—all from investors, just buying up the properties in these low-income communities. They come in and bid, spray paint the lawn green, put a fresh coat of paint, maybe \$5,000 to \$10,000 of work into the house and put it right on the market for \$100,000 or more.

So many investors are purchasing properties that we got calls from homeowners who were concerned about REOs being turned into rentals. They thought this was going to tip the scale so far in the other direction that it would lower home values for those who continue to own them that they wouldn't be able to sell or refinance.

Meanwhile, first-time homebuyers are on the bottom of the totem pole and can't even compete for these houses. They're still standing on the outside looking in.

## **Back to Loan Denials for Neighborhoods and Borrowers of Color**

The big story in 2008 was the return to high denial rates, especially in those neighborhoods most in need of new investment and refinance loans. For years before the subprime frenzy took off in 2000, CRC documented annual lending rates that showed African Americans in California being denied at twice the level of white applicants.<sup>57</sup>

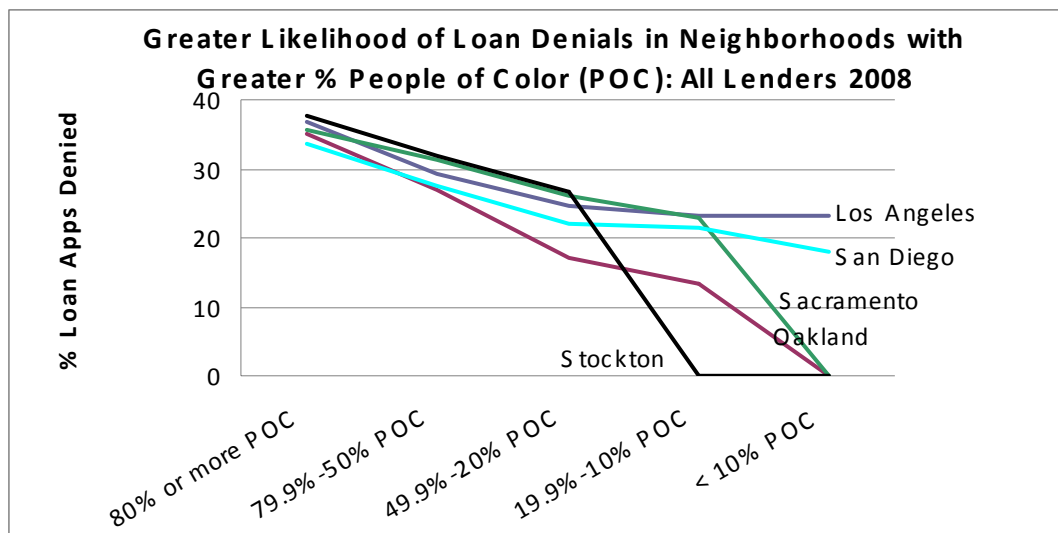
Today, without as many predatory and high-cost loans to peddle, the return to credit denial in neighborhoods of color is stark across the board—rejections of new loan applications are higher, while prime lending has dropped sharply.

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<sup>57</sup> See "Who Really Gets Home Loans? Mortgage Lending to African American, Latino, and Low-Income Borrowers in California 1992-1998"

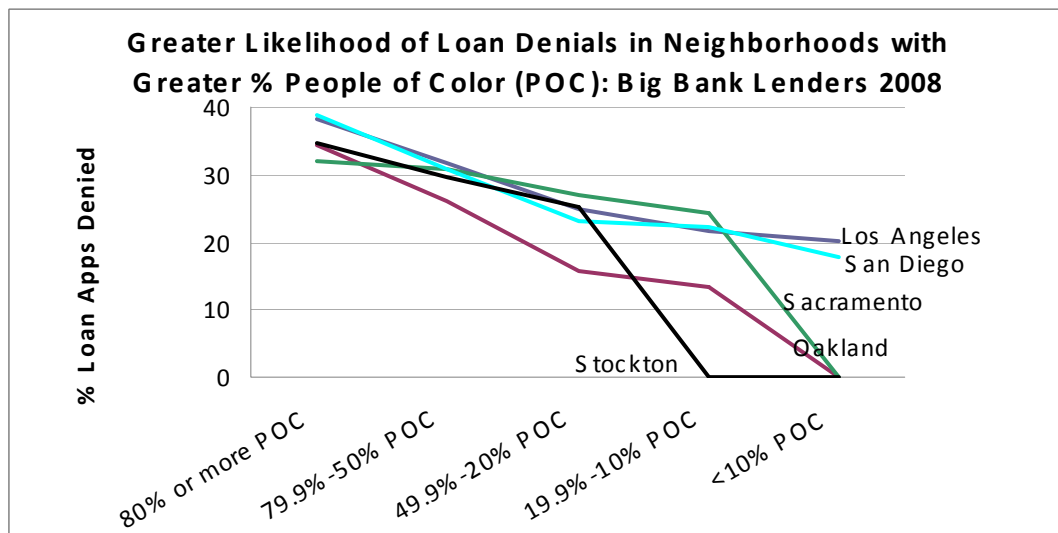
### For All Lenders

Loan applications were more likely to be denied in neighborhoods of color than in white neighborhoods. In each city, denial rates were highest in neighborhoods where there were more residents of color. Denial rates in these neighborhoods averaged over 35%, but declined in each city in neighborhoods with fewer residents of color.<sup>58</sup>



### For Big Bank Lenders

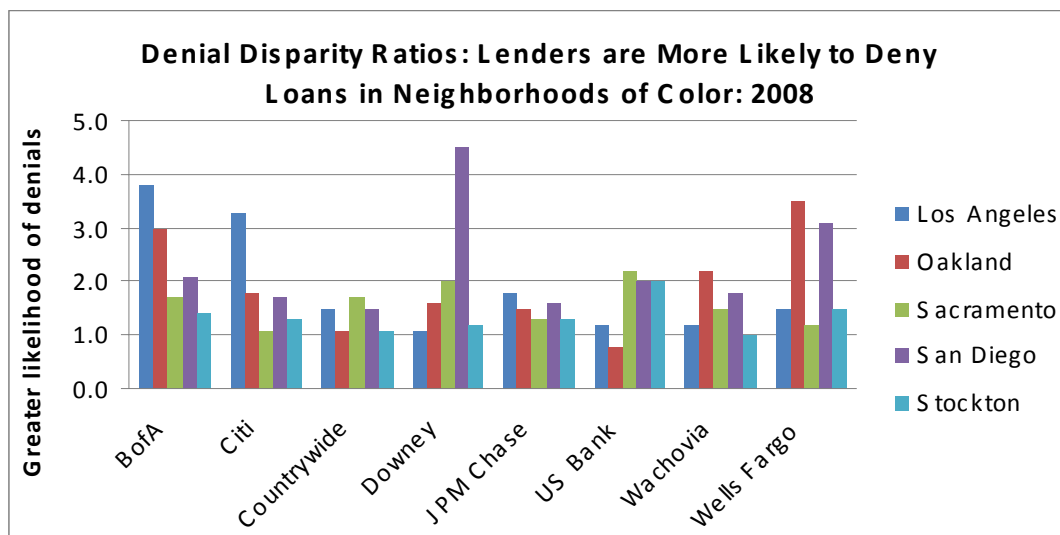
The same patterns of higher denials in neighborhoods of color held true when looking at lending by the Big Bank Lenders. In San Diego, these Big Bank Lenders denied nearly 40% of all loan applications taken from neighborhoods of color.



<sup>58</sup> Note that not all of the survey cities contain neighborhoods with fewer than 10%, or even fewer than 20%, people of color. In these instances, charts and tables will zero out or exclude such data.

### *For Individual Lenders*

When looking at individual lenders, Bank of America, Citigroup and Wells Fargo had the worst denial disparity ratios. These ratios reflect the greater likelihood that neighborhoods of color are to be denied for loans than white neighborhoods.



The table below shows that nearly all of the Big Bank lenders were significantly more likely to deny loans from neighborhoods of color than they were for loans in white neighborhoods.

Bank of America owned the worst denial disparity ratio among Big Bank Lenders in the five survey cities. Bank of America was almost four times as likely to deny loans from neighborhoods in Los Angeles where people of color comprised 80% or more of residents, as compared to neighborhoods where less than 10% of residents are people of color. Additionally, Bank of America was three times as likely to deny loans in Oakland neighborhoods where more than 80% of residents are people of color as compared to neighborhoods where between 20% and 49% of residents are people of color.

Wells Fargo was over three times as likely to deny loans in neighborhoods of color in both Oakland AND San Diego. Citigroup was over three times as likely to deny loan applications from neighborhoods of color in L.A.

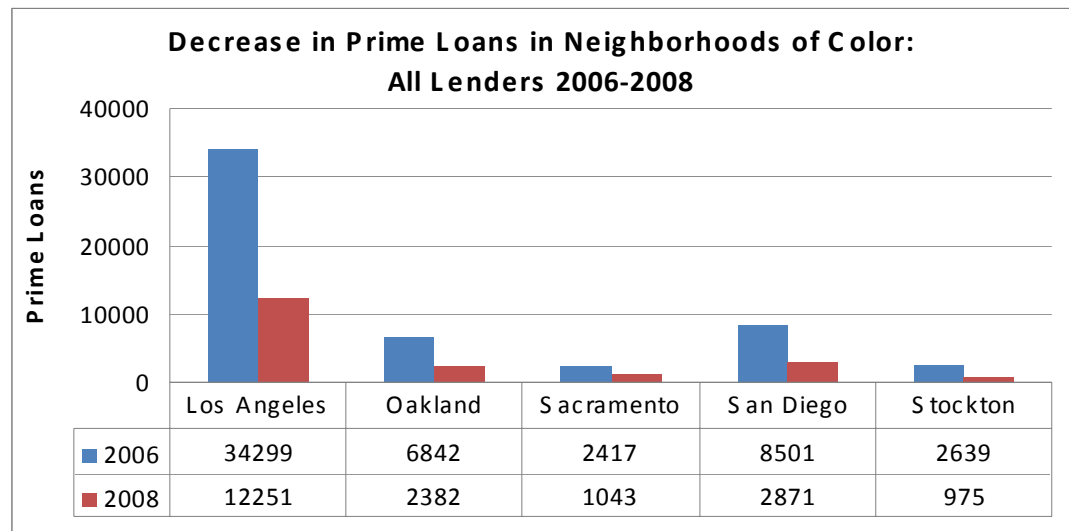
| Denial Disparity Ratios |             |         |            |           |          |
|-------------------------|-------------|---------|------------|-----------|----------|
| Lender                  | Los Angeles | Oakland | Sacramento | San Diego | Stockton |
| Bank of America         | 3.8         | 3       | 1.7        | 2.1       | 1.4      |
| Citigroup               | 3.3         | 1.8     | 1.1        | 1.7       | 1.3      |
| Countrywide             | 1.5         | 1.1     | 1.7        | 1.5       | 1.1      |
| Downey Savings and Loan | 1.1         | 1.6     | 2          | 4.5       | 1.2      |
| JPMorgan Chase          | 1.8         | 1.5     | 1.3        | 1.6       | 1.3      |
| US Bank                 | 1.2         | 0.8     | 2.2        | 2         | 2        |
| Wachovia                | 1.2         | 2.2     | 1.5        | 1.8       | 1        |
| Wells Fargo             | 1.5         | 3.5     | 1.2        | 3.1       | 1.5      |

### Less Prime Lending in Neighborhoods of Color

Neighborhoods of color, often those most in need of access to credit in light of the devastating effects of subprime lending and foreclosures, saw a dramatic DECREASE in PRIME loans in 2008. The drop off from 2006 to 2008 is stunning.

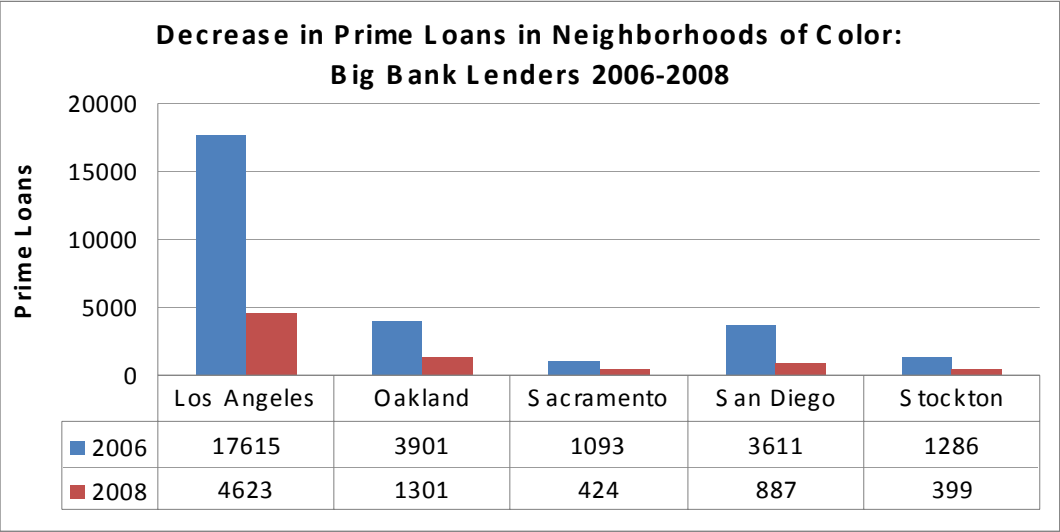
#### *For All Lenders*

In Los Angeles, for example, there were over 22,000 fewer prime loans made in neighborhoods of color, and in each city, there was a large decrease.



*For Big Bank Lenders*

This was certainly true for Big Bank Lenders as well. In Oakland, there were three times as many prime loans made by Big Bank Lenders in predominantly neighborhoods of color in 2006 as there were in 2008.



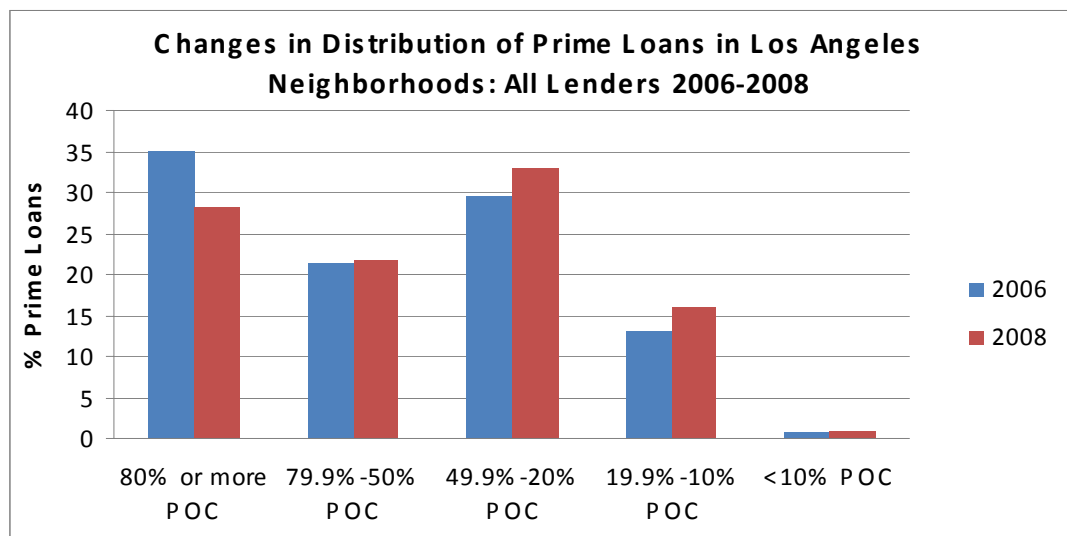


## Distribution of Prime Loans Worsened in 2008

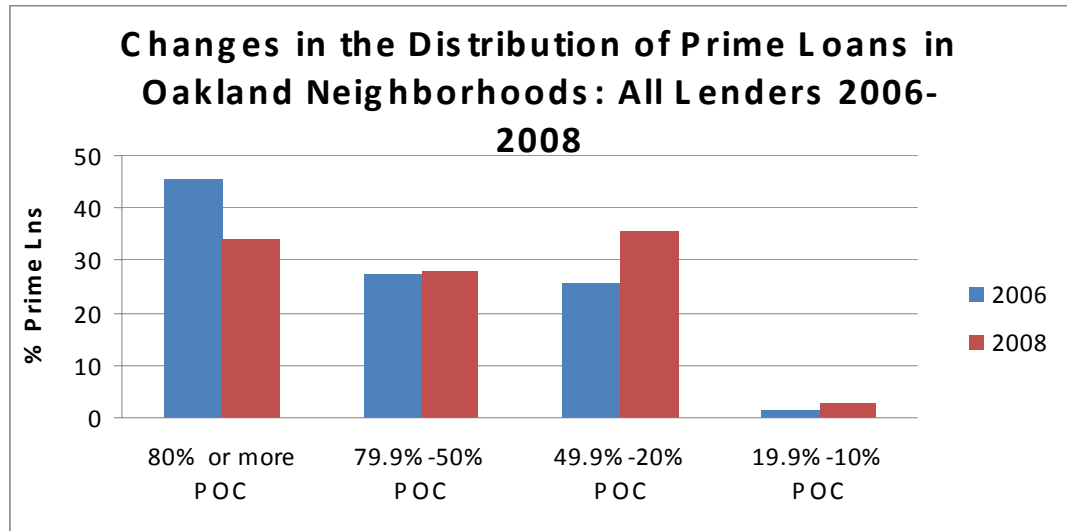
### *For All Lenders*

While lending decreased dramatically from 2006 to 2008 in all neighborhoods, lenders were even LESS likely to offer prime loans in neighborhoods of color. The distribution of prime lending has shifted during this time so that a lower percentage of prime loans originated in 2008 were made in neighborhoods of color than was the case in 2006. This was true for all five survey cities. In other words, the decrease in lower-cost prime lending in 2008 was more pronounced and disproportionately felt in neighborhoods of color.

In Los Angeles in 2006, 35% of all lower cost prime loans made in the city were made in neighborhoods of color, but in 2008, the figure dropped to 28%.



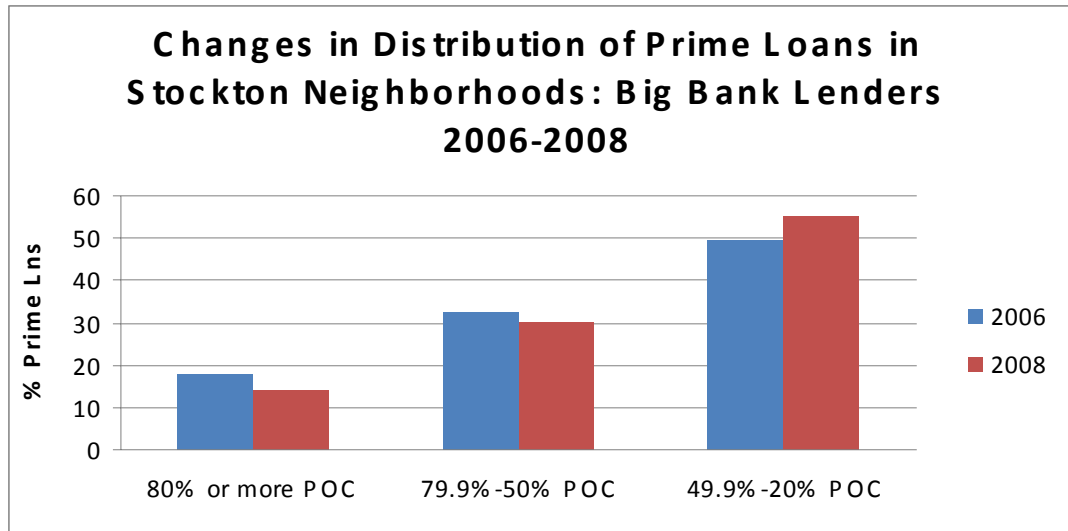
In Oakland in 2006, 45.3% of all lower cost prime loans made in the city were made in neighborhoods of color, but in 2008, the figure dropped to 33.9%.



#### *For Big Bank Lenders*

Big Bank Lenders made fewer prime loans in neighborhoods of color. The changes in distribution of prime loans from 2006 to 2008 for the industry were mirrored by the Big Bank Lenders. In four of the five survey cities, prime loans were increasingly concentrated in white neighborhoods, less so in neighborhoods of color in 2008 as compared to 2006. The exception was Sacramento, where the percentage of prime loans to neighborhoods of color increased marginally from 6.4% of all prime loans in 2006, to 6.6% of all prime loans in 2008.

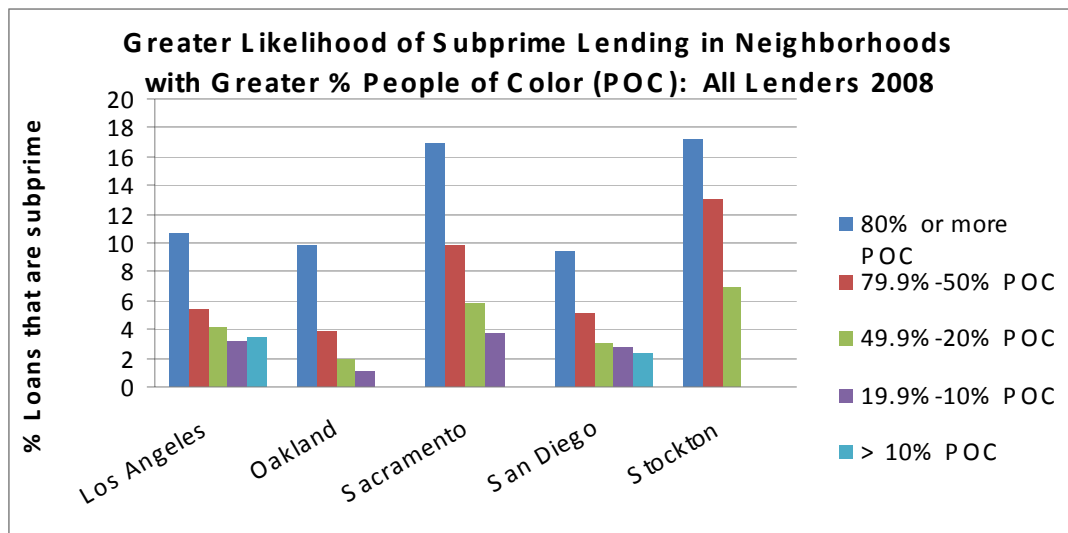
Big Bank Lenders made only 34% of prime loans in neighborhoods of color in Oakland in 2008, two years after making 45% of such loans in these neighborhoods. Conversely, the concentration of prime loans went up from 2006 to 2008 in Oakland neighborhoods where most of the residents were white. In Stockton, Big Bank Lenders made only 14.3% of prime loans in neighborhoods of color in 2008, two years after making 18% of such loans in these neighborhoods. The concentration of prime loans also went up from 2006 to 2008 in Stockton neighborhoods where the majority of residents are white.



### Subprime Lending Persists and is Still Concentrated in Neighborhoods of Color

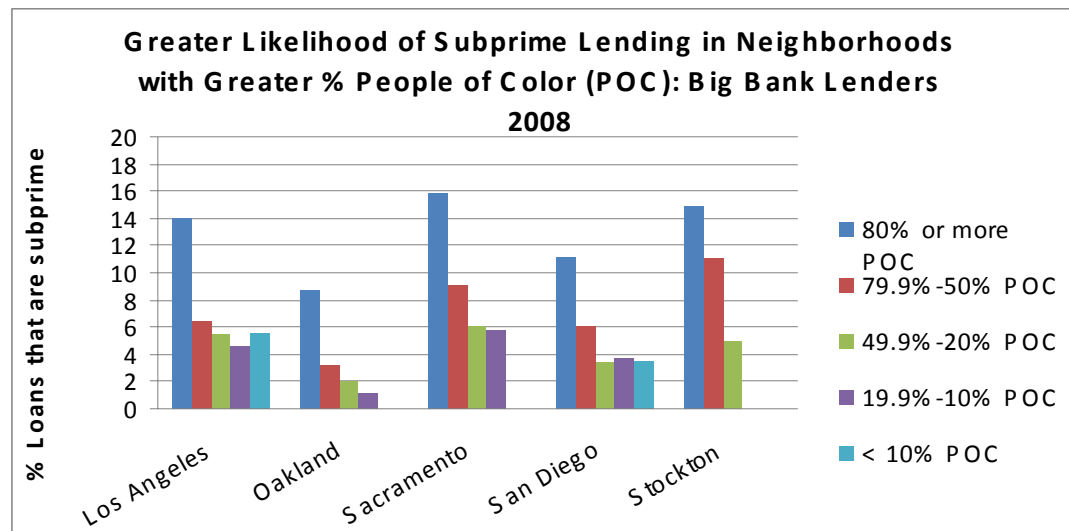
Even though subprime lending decreased significantly in 2008, it was still more likely to occur in neighborhoods of color in each survey city.

*For All Lenders*



### *For Big Bank Lenders*

The Big Bank Lenders which began to exert dominance in the market in 2008 also were more likely to sell subprime loans to neighborhoods of color as compared to white neighborhoods.



So, all communities are affected by the significant decrease in lending in 2008 and beyond, but the effects seem once again to be disproportionately felt by communities of color. Without access to credit, it will be difficult for California communities to rebound and revitalize.

#### **Walter Dees and E.J. Hawkins, counselors with Clearpoint Credit Counseling Solutions in Los Angeles:**

We definitely have some gentrification going on, with people coming into neighborhoods who have not previously lived there. Individuals are moving from the west side—Marina Del Rey, Westchester, Mar Vista—to inner-city neighborhoods because the homes are comparable but the prices are much more affordable. The people who had purchased those homes with subprime loans, they're now being replaced.

African Americans are having a hard time coming up with the amount of money it takes for a down payment, and it's very difficult to have the credit score that it takes. That's why the FHA was so important. A lot of people of color are not able to buy in their own neighborhood. The first-time homebuyer with an FHA loan is competing with investors with large sums of cash ready to go, and sellers are more inclined to go with that offer.

Instead of most African Americans being able to purchase in the neighborhood they were living in, they can't buy and end up renting. By the time they're ready to be in a position to purchase again, they will be priced out. There will be more renters than owners, which is going to continuously bring down our neighborhoods and keep people from being able to move up economically. It is a vicious cycle.

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# RECOMMENDATIONS

The findings in this report suggest the need for policy solutions to address four key challenges to California communities:

- Lack of transparency for foreclosure prevention efforts
- Lack of accountability for banks
- Need to mitigate the neighborhood impacts of redlining, toxic loans, foreclosures, poor loan modification outcomes, and lack of access to credit
- Loss of household and community wealth

In order to address these key challenges, California Reinvestment Coalition recommends the following five action items:

## **Pass Strong Regulatory Reform: CRA and CFPA**

**CRA Modernization.** The one federal law that has been effective in forging wealth building partnerships between borrowers, communities and financial institutions is the Community Reinvestment Act. CRA is limited only by its narrow reach and the extent to which industry practices have outpaced CRA regulations and allowed banks to circumvent the goals of the law. HR 1479, the CRA Modernization Act, can go far in reversing the losses of the last few years by extending CRA to more corporations, more communities, and more bank transactions. CRA modernization can help ensure homeowners, businesses and communities have equal access to good loans that can help revitalize neighborhoods.<sup>59</sup>

**Consumer Financial Protection.** Banks failed communities through redlining, targeting for high cost products, refusal to prevent foreclosures, and now failure to lend. Clearly, our regulatory system and regulatory agencies failed us as well. Bank regulators have never viewed their primary responsibility as protecting consumers. And with banks currently able to choose which regulator to be supervised by, we have created a regulatory race to the bottom for agencies that do not want to impose strict oversight for fear of driving banks away to sister agencies. A Consumer Financial Protection Agency whose sole mission is to protect consumers from abusive products and practices would have helped prevent a crisis like the one we face now. Such an agency needs broad powers and independence to do its job, and should have authority to enforce the Community Reinvestment Act.

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<sup>59</sup> See Carolina Reid and Elizabeth Laderman (2009). "The Untold Costs of Subprime Lending: Examining the Links among Higher-Priced Lending, Foreclosures and Race in California," presented at the Greenlining Homeownership Forum, San Francisco, May 5, 2009. ("Blacks who obtained a loan through a federally regulated institution within their CRA assessment area were 13.5% less likely to get a subprime ARM than Blacks who obtained their loan through an independent mortgage company or through an affiliate or subsidiary of a federally regulated institution"). See also, California Reinvestment Coalition, Community Reinvestment Association of North Carolina, Empire Justice Center, Massachusetts Affordable Housing Alliance, Neighborhood Economic Development Advocacy Project, Ohio Fair Lending Coalition, and Woodstock Institute, "Paying More for the American Dream III: Promoting Responsible Lending to Lower Income Communities and Communities of Color," April 2009 ("Lenders covered by the CRA were far less likely to make higher-cost loans than lenders (both depositories and independent mortgage companies) not covered by the CRA")

## **Reduce Loan Principal to Slow Foreclosures: HAMP, Bankruptcy Cramdown and Beyond**

**HAMP.** The growing number of underwater borrowers in California need loan modifications with principal reduction to keep them in their homes and to preserve their communities. It seems this solution is in everyone's interest, except perhaps the servicers who are refusing to offer meaningful relief to struggling homeowners. The HAMP program should be amended to require and incentivize servicers to reduce loan principal for underwater borrowers.

**Bankruptcy Cramdown.** All foreclosure prevention initiatives to date, including HAMP, have been doomed to fail because they rely on voluntary industry compliance. The banking industry will not respond merely to shame and inadequate financial incentives. Judicial modification presents one clear exception to our current reliance on voluntary compliance. Congress should once and for all give most homeowners the same rights that yacht owners and owners of vacation homes now have—the right to have a federal judge in a bankruptcy court make a common sense determination about how to restructure the loan to give the borrower a second chance to keep her home.

**And Beyond.** But homeowners should not have to file for bankruptcy in order to find relief from oppressive and fraudulent loans. Congress should pass legislation creating procedural hurdles to foreclosure where banks fail to consider modifications with principal reduction, even outside of bankruptcy.<sup>60</sup>

## **Improve HAMP**

Currently, the Home Affordable Modification Program is the primary initiative by which struggling homeowners can receive assistance in avoiding foreclosures. Since its announcement, CRC has noted the program's positive developments, but also its inherent limitations. In addition to inducing servicers to reduce loan principal, the program needs to more effectively address a variety of issues, including:

- Consequences to servicers for failure to perform, including fines, penalties, and the loss of all government subsidies
- Addressing the needs of unemployed and underemployed borrowers, by making it easier for them to qualify for loan modifications, or through forbearance programs
- Providing full transparency around both the net present value tests used to determine eligibility for a modification, and data about which borrowers and which neighborhoods are getting help and which aren't
- Developing a clear internal (at each servicing company) and external (through Fannie Mae or Freddie Mac) appeals process for borrowers who are denied improperly

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<sup>60</sup> Ray Brescia, "Meaningful Mortgage Relief: Principal Reduction Through Foreclosure Prevention," Huffington Post, January 7, 2010. ("Such interventions would make it more difficult for lenders to foreclose on properties when their mortgages do not meet minimum standards of fairness, unless those banks first agree to explore meaningful modifications of those loans and strip them of their illegal terms and reduce the outstanding principal on them."). See also, Gary Dynski, "Uprooting the Great Stagnation: The Building Blocks of a Strategy for Remaking American Housing and Jobs in the Post-Crisis Economy," November 2009.

- Requiring servicers to respond to borrowers and counselors within one month. No borrower should lose her home because her servicer takes too long to process her application, or keeps losing the documents she sends.

### **Enforce Fair Housing and Fair Lending, and Expand Data Collection**

**Loan Mod Disparities.** We are witnessing an alarming loss of wealth in communities of color as a result of historic inequities and modern predatory practices. The Departments of Justice and Housing and Urban Development must make fair housing investigation and enforcement a priority. The U.S. Supreme Court recently reaffirmed the right of state Attorneys General to enforce certain laws against national banks, and state AGs are well placed to fight discrimination in its old and current forms. The Treasury Department should scrutinize the race data it is collecting under HAMP to ensure the program is affirmatively furthering fair housing. Where there are red flags, Treasury should publicly refer cases to the Department of Justice to send a message to all servicers and the public that fair lending will be enforced.

**FHA Discrimination.** Another concern is that while homeownership has become relatively more affordable in light of mass foreclosures, first-time homebuyers have had difficulty accessing the market today. Anecdotal evidence suggests that the large numbers of borrowers who must rely on FHA financing are being turned away by sellers who prefer to deal with cash investors or feel that FHA need not apply. Lenders, especially the Big Banks, must develop policies to favor first time home buyers, especially on REO foreclosed properties controlled to any extent by the banks. And all banking and real estate professionals must speak up and ensure that FHA discrimination is not occurring given the large impact this has on all borrowers, especially borrowers of color.

**More Transparency, More Data.** More research and data are needed to shed light on the role of race in lending and foreclosure prevention, and to help shape public policy. Treasury should make publicly available data it is collecting under HAMP that reveal the race and ethnicity of borrowers seeking loan modifications, as well as the census tracts in which they live. More broadly, the Home Mortgage Disclosure Act should be expanded to require public reporting on the race, ethnicity, gender and age and outcomes of borrowers applying for loan modifications. Only through transparency and public access to bank performance data can large financial institutions ultimately be held accountable for their actions.

### **Protect and Shelter Renters**

**Innocent and Hidden.** Perhaps the most innocent and most forgotten victims of the foreclosure crisis are the tenants living in investor owned properties who are kicked out of their homes when their landlords are unable to pay the mortgage. Often tenants find out about the foreclosure when their utilities are shut off, repairs go undone, or they are illegally evicted without proper notice.<sup>61</sup> Tenant families and their communities, as well as the new investor owners of the home, are all better off if tenants are allowed to continue renting the property. When tenants are evicted, properties may sit vacant, create blight in the neighborhood, become a site for

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<sup>61</sup> See, Tenants Together, "Hidden Impact: California Renters in the Foreclosure Crisis: March 2009, available at [www.tenants-together.org](http://www.tenants-together.org).

criminal activity, and bring down property values in the neighborhood. Banks must ensure that federal, state and local tenant protections are respected, whether they are acting as loan servicers or trustees. Too many tenants are being victimized by national banks that are not respecting landlord tenant law.

**Re-Rental Policies.** Fannie Mae and Freddie Mac policies designed to give tenant occupants and foreclosed homeowners the chance to sign a lease to rent the foreclosed property are positive, and should be built upon to make them more accessible and meaningful for families who otherwise are uprooted, perhaps with no place to go.

**Affordable Housing.** Ultimately, we need more affordable housing. Predatory lending and the foreclosure crisis were able to occur and thrive in an environment where housing was truly out of reach for most families. The shortage of housing that is affordable for the lowest income families grew significantly between 2007 and 2008.<sup>62</sup> The financial crisis, along with its ensuing budget cuts and devalued Low Income Housing Tax Credit program, has severely diminished the capacity of affordable housing developers to build housing for foreclosed homeowners and others in desperate need of low cost housing. Federal policies—such as a permanent source of funds for affordable housing—are needed to jump start affordable housing development as we make the transition from policies that push homeownership at all costs, to those that help families live within their means.<sup>63</sup>

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<sup>62</sup> San Diego Housing Federation, "Affordable Housing Shortage Greatest Among Lowest Income," in Housing & Community Development News, January 2010 (citing a National Low Income Housing Coalition analysis of 2008 American Community Survey (ACS) data).

<sup>63</sup> Gary Dymski, "Uprooting the Great Stagnation: The Building Blocks of a Strategy for Remaking American Housing and Jobs in the Post-Crisis Economy," presented at the conference, "The Next Stage: Financial Reforms, Jobs, and Housing, the Dollar and the International System," Sponsored by Economists for Peace and Security, Ronald Reagan Building and International Trade Center, Washington, D.C. November 13, 2009.



## Appendix: Maps

